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HOUSE JOURNAL

OF THE

FOURTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF MONTANA,

BEGUN AND HELD AT VIRGINIA CITY, THE CAPITAL OF SAID
TERRITORY, ON MONDAY, NOVEMBER 4, A. D. 1867,
AND CONCLUDED DECEMBER 13, A. D. 1867.

PUBLISHED BY AUTHORITY.

HELENA, MONTANA TERRITORY :
GEO. M. PINNEY, PUBLIC PRINTER.
1869.

FEDERAL OFFICERS.

Governor,

GREEN CLAY SMITH, VIRGINIA CITY.

Secretary,

JAMES TUFTS, VIRGINIA CITY.

Judiciary,

1st District—HEZEKIAH L. HOSMER, *Chief Justice*, VIRGINIA CITY.

2d District—LORENZO P. WILLISTON, *Associate Justice*, DEER LODGE.

3d District—LYMAN E. MUNSON, *Associate Justice*, HELENA.

U. S. District Attorney,

J. S. SLATER, VIRGINIA CITY.

U. S. Marshal,

NEIL HOWIE, HELENA.

Collector of Customs,

JOHN X. BEIDLER, HELENA.

TERRITORIAL OFFICERS.

Auditor,

WILLIAM H. RODGERS, VIRGINIA CITY.

Treasurer,

W. G. BARKLEY, VIRGINIA CITY.

Sup't Public Instruction,

T. F. CAMPBELL, HELENA.

Prison Commissioners,

FRANK WELLS, RADESBURG.

THOMAS L. IRWINE, DEER LODGE.

PHILIP E. EVANS, SHERIDAN.

Prison Warden,

THOMAS B. WADE, VIRGINIA CITY.

MEMBERS OF THE HOUSE OF REPRESENTATIVES.

W. STEWART, *Speaker.*
J. M. ANDERSON.
N. C. BOSWELL.
H. R. COMLY.
W. H. EDWARDS.
JAMES GALLAHER.
H. A. KENNERLY.

F. E. W. PATTON.
J. W. RHODES.
JNO. A. SIMMS.
W. TENNANT.
J. R. WESTON.
SAM. WORD.

A. H. BARRETT, *Chief Clerk.*
F. A. SHIELDS, *Assistant Clerk.*
J. G. McLAIN, *Engrossing Clerk.*

WILLIAM BUTTS, *Enrolling Clerk.*
O. P. THOMAS, *Serg't-at-Arms.*
H. J. HILL, *Doorkeeper.*

MEMBERS OF THE COUNCIL.

CHAS. S. BAGG, *President.*
JOHN W. CORUM.
W. E. CULLEN.
ALEXANDER DAVIS.

SAMPLE ORR.
JASPER RAND.
THOMAS WATSON.

THOMAS B. WADE, *Secretary.*
C. C. MENAUGH, *Assistant Secretary.*
H. H. SHOWERS, *Engrossing Clerk.*

D. B. JENKINS, *Enrolling Clerk.*
STEPHEN R. ELWELL, *Serg't-at-Arms.*
JOHN THOMPSON, *Doorkeeper.*

RT. REV. BISHOP D. S. TUTTLE, *Chaplain.*

HOUSE JOURNAL.

FOURTH SESSION.

FIRST DAY.

NOVEMBER 4, 1867.

In compliance with the provisions of the Acts of Congress, the 4th General Assembly of the Territory of Montana, convened Monday, November 4th, 1867, at the Hall of the House of Representatives, in the City of Virginia.

The House was called to order by A. H. Barrett, late Chief Clerk of the Legislative Assembly of the Territory of Montana.

The Clerk proceeded to call the roll, whereupon the following members answered to their names :

Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Stewart, Tennant, Weston, Word.

On motion of Mr. Word, H. A. Kennerly was appointed Speaker *pro tem.*

On motion of Mr. Word, A. H. Barrett was appointed Chief Clerk *pro tem.*

On motion, O. P. Thomas was appointed Sergeant-at-Arms *pro tem.*

On motion of Mr. Rhodes, Wm. Deascey was appointed Door-keeper *pro tem.*

On motion of Mr. Anderson, of Edgerton, a Committee of three was appointed on Credentials, consisting of Messrs. Anderson, Gallaher, and Word.

On motion of Mr. Patton, the House adjourned till 3 o'clock.

AFTERNOON SESSION.

Roll called—quorum present.

Mr. Simms absent.

Mr. Anderson, chairman of the Committee on Credentials reported as follows, to wit :

To the Honorable House of Representatives of Montana :

Your Committee on Credentials beg leave to report, that the following named persons have certificates of election duly issued and are, in the opinion of your Committee, entitled to seats in this House, as members thereof :

Sam. Word,	{	1st District.
F. E. W. Patton,		
W. H. Edwards,	{	2nd District.
N. C. Boswell,		
Jno. A. Simms,	{	3rd District.
W. Stewart,		
J. R. Weston,	{	4th District.
Jas. Gallaher,		
J. W. Rhodes,	{	5th District.
J. M. Anderson,		
H. R. Comly,	{	6th District.
W. Tenant,		
Hy. A. Kennerly,	{	7th District.

J. M. ANDERSON.

On motion of Mr. Tennant, the report was adopted.

On motion of Mr. Anderson, a Committee of three was appointed, to wait upon W. M. Stafford, a Justice of the Peace, and invite him to administer the oath of office to the members.

Messrs. Anderson, Boswell, and Patton, were appointed, and conducted Judge Stafford to the Hall, where he administered the oath to the following members by district, to wit:

<i>1st District,</i>	S. Word, F. E. W. Patton.
<i>2nd District,</i>	W. H. Edwards, N. C. Boswell.
<i>4th District,</i>	W. Stewart.
<i>5th District,</i>	J. R. Weston, Jas. Gallaher.
<i>6th District,</i>	J. W. Rhodes, J. M. Anderson, H. R. Comly, W. Tennant.
<i>7th District,</i>	Hy. A. Kennerly.

On motion of Mr. Anderson, F. A. Shields was appointed Assistant Clerk *pro tem.*

Mr. Gallaher moved to adjourn till 9 o'clock, A. M., to-morrow. Lost.

On motion of Mr. Word, the House then proceeded to the permanent organization of the House, by ballot.

Nominations for Speaker being in order, Mr. Edwards nominated Mr. Stewart, of Jefferson.

Mr. Patton nominated Mr. Word, of Madison.

On motion of Mr. Edwards, Messrs. Edwards, Comly, and Patton, were appointed Tellers.

Whereupon the Clerk proceeded to call the roll, which resulted as follows:

Mr. Word 5 votes, Mr. Stewart 5 votes, Mr. Patton 1 vote; necessary to a choice, 6.

Neither having received a majority of the votes cast, the Speaker announced that the House would proceed to a second ballot for Speaker, whereupon the Clerk called the roll, and Mr. Word received 6 votes, Mr. Stewart 6; necessary to a choice, 7.

A message was received from the Council, announcing that that body was permanently organized, and ready to proceed with business upon the permanent organization of the House.

The House then proceeded with the third ballot for Speaker.

Roll called, and Mr. Word received 6 votes, Mr. Stewart received 6 votes; necessary to a choice, 7.

On motion of Mr. Patton, the House adjourned to 10 o'clock, A. M., to-morrow.

SECOND DAY.

NOVEMBER 5, 1867.

The House met pursuant to adjournment. Speaker *pro tem.* in the chair.

Roll called—Messrs. Simms and Gallaher absent.

Journal of yesterday read and approved.

On motion of Mr. Edwards, the Sergeant-at-Arms was sent for Mr. Gallaher.

Mr. Gallaher appeared and took his seat.

The election of Speaker being in order, the House proceeded to cast their vote.

Fourth ballot—Mr. Word received 5 votes; Mr. Stewart received 7 votes.

Mr. Stewart, having received a majority of all the votes cast, was declared duly elected Speaker.

On motion of Mr. Word, a Committee of two was appointed to conduct the Speaker elect to the chair.

Messrs. Word and Anderson were appointed such Committee, and conducted Mr. Stewart to the chair.

On motion of Mr. Word, the House took a recess of thirty minutes.

House resumed.

Roll called—Mr. Simms absent.

The election of Chief Clerk being in order, Mr. Rhodes nominated A. H. Barrett, of Jefferson, and—

On motion of Mr. Word, A. H. Barrett was unanimously elected Chief Clerk of the House.

The election of Assistant Clerk being in order, Mr. Anderson nominated F. A. Shields, of Madison.

Mr. Patton nominated W. A. Mitchell, of Madison.

There being no further nominations, the House then proceeded to ballot, and Mr. Shields received 9 votes, and Mr. Mitchell received 3 votes.

Mr. Shields, having received a majority of all the votes cast, was declared duly elected Assistant Clerk of the House.

Election of Engrossing Clerk being in order, Mr. Weston nominated J. G. McLain, of Meagher county.

There being no other nominations, on motion of Mr. Word, Mr. J. G. McLain was declared unanimously the Engrossing Clerk of the House.

The election of Enrolling Clerk being in order, Mr. Comly nominated William Butts, of Madison county.

Mr. Weston nominated A. Stuart, of Jefferson county.

Mr. Patton nominated James Morgan, of Madison county.

There being no further nominations, the House proceeded to ballot for Enrolling Clerk.

Mr. Butts received 8 votes; Mr. Stuart received 2 votes; and Mr. Morgan received 2 votes.

Mr. Butts, having received a majority of all the votes cast, was declared duly elected Enrolling Clerk of this House.

The election of Sergeant-at-Arms being in order, Mr. Gallaher nominated Oliver P. Thomas, of Madison county.

Mr. Boswell placed in nomination A. B. Miller, of Jefferson county.

There being no further nominations, the House proceeded to ballot for Sergeant-at-Arms.

Mr. Thomas received 7 votes, and Mr. Miller received 5 votes.

Mr. Thomas, having received a majority of all the votes cast, was declared duly elected Sergeant-at-Arms.

The election of Doorkeeper being in order, Mr. Comly nominated A. C. Hill, of Gallatin county.

Mr. Edwards nominated J. C. Orem, of Madison county.

Mr. Rhodes nominated William Deascey, of Madison county.

Mr. Patton nominated Mr. H. J. Johnson, of Madison county.

Mr. Anderson nominated A. B. Miller, of Jefferson county.

There being no further nominations, the House then proceeded to ballot for Doorkeeper.

Mr. Hill received 4 votes; Mr. Orem received 1 vote; Mr. Deascey received 2 votes; Mr. Johnson received 2 votes; Mr. Miller received 3 votes.

Seven votes necessary to a choice.

There being no choice, the House then proceeded to a second ballot, which resulted as follows, to wit:

Mr. Hill received 6 votes; Mr. Deascey received 2 votes; Mr. Johnson received 2 votes; Mr. Miller received 2 votes.

No choice.

The third ballot was cast, and the ballot resulted as follows:

Mr. Hill received 6 votes; Mr. Johnson received 4 votes; Mr. Deascey received 1 vote; Mr. Miller received 1 vote.

Seven votes necessary to a choice.

There being no election, the House cast their fourth ballot, which resulted as follows:

Mr. Hill received 6 votes; Mr. Johnson received 6 votes.

Seven votes necessary to a choice.

Neither receiving a majority of all the votes cast, the fifth ballot was taken, with the following result:

Mr. Hill received 5 votes; Mr. Johnson received 7 votes.

Mr. Johnson, having received a majority of all the votes cast, was declared, by the Speaker, duly elected Doorkeeper of the House.

Nominations for Fireman being in order, Mr. Anderson nominated Mr. Prosser.

Mr. Tennant nominated A. C. Hill.

Mr. Patton nominated C. C. Clements.

Mr. Edwards nominated Mr. Rankin, of Deer Lodge county.

A ballot was then had, which resulted as follows:

Mr. Prosser received 1 vote; Mr. Hill received 7 votes; Mr. Clements received 2 votes; Mr. Rankin received 2 votes.

Mr. Hill, having received a majority of all the votes cast, was declared elected Fireman of the House.

On motion of Mr. Word, the House then went into the election of two Pages.

Nominations being in order, Mr. Boswell nominated Master A. Snider, Jr.

Mr. Anderson nominated Master John Carter.

Mr. Comly nominated Master R. Watson.

Mr. Gallaher nominated Master Hughes.

There being no further nominations, the House then proceeded to cast their ballots, which resulted as follows:

A. J. Snider, Jr., received 8 votes; R. Watson received 8 votes; John Carter received 4 votes; Master Hughes received 4 votes.

Seven votes necessary to a choice.

Masters Snider and R. Watson, having received a majority of all the votes cast, were declared duly elected Pages of the House.

On motion of Mr. Tennant, Bishop Tuttle was unanimously appointed Chaplain of the House.

On motion of Mr. Word, Judges Lovell and Stafford administered the oath of office to the officers elect of the House.

Mr. Word introduced the following resolution, which was adopted:

Resolved, That a Committee of three be appointed, to wait upon the Council, and inform them that the House is organized permanently, and is now ready for business.

The Speaker appointed Messrs. Rhodes and Gallaher.

On motion of Mr. Anderson, the House took a recess until 2 P. M.

AFTERNOON SESSION.

The House resumed its session, at 2 o'clock, P. M.

Roll called—Messrs. Comly, Tennant, Gallaher, and Edwards, absent.

On motion of Mr. Kennerly, the Sergeant-at-Arms was directed by the Speaker to bring in the absentees.

Sergeant-at-Arms returned, and reported the absentees in their seats.

Mr. Word, chairman of the Committee to inform the Council that the House was permanently organized and ready to proceed with business, reported that they had performed that duty.

A message was received from the Council, through their Chief Clerk, inviting the House to meet the Council in joint convention to hear the Message of the Governor.

On motion of Mr. Anderson, the Clerk was instructed to inform the Council that the House would meet them in joint convention, at 3 o'clock, P. M.

The House then took a recess until 3 o'clock, P. M.

3 O'CLOCK, P. M.

The House resumed.

Roll called—Members all present.

The House then proceeded to the Council, and went into joint convention.

On motion of Mr. Davis, a Committee of two from the Council, and three from the House, was appointed to wait on His Excellency the Governor, and conduct him to the Council Hall, to deliver his message.

Messrs. Davis and Weston were appointed, on the part of the Council, and Messrs. Boswell, Tennant and Word, on the part of the House.

The Committee returned, and introduced the Governor to the joint convention.

The Governor then delivered his message.

On motion of Mr. Rand, the joint convention was then dissolved.

The members of the House then returned to their Hall, and the House resumed its session.

Mr. Word introduced the following resolution, which was adopted :

Resolved, That this House, in its deliberations, be governed by the parliamentary rules laid down in "Jefferson's Manual," until it shall have adopted permanent rules of its own.

On motion of Mr. Anderson, a Committee of three was appointed to prepare rules for the government of this House.

Messrs. Anderson, Word and Weston, were appointed as such Committee.

On motion of Mr. Comly, the following resolution was adopted :

Resolved, That the reporters of the various newspapers of the Territory be invited to take seats within the body of the House, and that the Clerks inform them of said invitation.

On motion of Mr. Word, the following resolution was adopted :

Resolved, That the freedom of this House be extended to all the Territorial officers, all members of the bar of this Territory, and all ex-members of the Legislature of this Territory.

On motion of Mr. Comly, the minutes of yesterday were amended to read "fourth Legislature," instead of "second Legislature."

Mr. Word offered the following resolution :

Resolved, That five hundred copies of the Governor's Message be ordered printed for the use of the House.

Mr. Anderson offered the following as a substitute, which was laid on the table :

Resolved, That John P. Bruce, the proprietor of the *Montana Democrat*, be, and he is hereby authorized to print for the use of

the House, five hundred copies of the Governor's Message, and accompanying documents.

Mr. Anderson then offered the following amendment:

"And that the Secretary of the Territory be requested to give said printing to the *Montana Democrat*."

Amendment lost.

The original resolution was then adopted.

Mr. Tennant moved to adjourn until 2 o'clock, P. M., to-morrow.
Lost.

On motion of Mr. Word, the House adjourned.

THIRD DAY.

NOVEMBER 6, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Mr. Simms absent.

Journal of yesterday read and approved.

A message from the Council was received, announcing that the Council had passed a resolution appointing a committee of two, to act in conjunction with a like committee from the House, to request of the Secretary that the public printing be bestowed upon John P. Bruce.

On motion of Mr. Word, the resolution was adopted, and Messrs. Word and Anderson were appointed such committee.

Mr. Anderson, chairman of Committee on Rules, reported as follows:

Your Committee to whom was referred the duty of reporting rules for the government of the House, beg leave to report, and recommend that the rules adopted by the Third Session of the Council of this Territory (hereto attached), be adopted by this House, with the following amendments, to wit:

In all rules where the word "President" appears, it be stricken out, and the word "Speaker" be inserted, and also where the word "Council" appears, it be stricken out and the word "House" substituted.

And your Committee further recommend and report that a Standing Committee on Territorial Affairs be appointed.

On motion of Mr. Tennant, report received and committee discharged.

On motion of Mr. Word, the rules of the Third Legislative Assembly were read *seriatim* for approval.

Mr. Word offered the following as a substitute for Rule No. 1, which was adopted :

“ Rule 1st. In case that the Speaker is absent or fails from any cause to take the chair, the House shall appoint a Speaker *pro tem.*”

On motion of Mr. Patton, Rule No. 11 was stricken out, and the following substitute inserted :

“ When a question is under debate, no motion shall be received except: 1st. To adjourn; 2nd. To lay on the table; 3rd. For the previous question; 4th. To postpone to a day certain; 5th. To commit to a standing committee; 6th, To commit to a select committee; 7th. To amend; 8th. To postpone indefinitely; and these several motions shall have precedence in the order in which they stand arranged, and a call of the House may be made by a demand of two members.”

On motion of Mr. Anderson, rule 13, line 7, was amended by striking out after the word “same” the word “or,” and inserting “one.”

On motion of Mr. Kennerly, Rule 14 was stricken out, and the following inserted as a substitute :

“ When on taking the previous question, the House shall decide that the main question shall now be put, the main question shall remain as the question before the House in the same stage of proceedings as before the previous question was moved.”

On motion of Mr. Anderson, rule 20 was stricken out, and the following substitute inserted :

“ A member called to order shall immediately sit down unless he desires to explain; after which he shall take his seat until the point of order be decided by the chair, which shall be final,

unless the member desires to appeal, in which case he shall have the right to rise and ask the chair to put his motion to the House, whose duty it shall be immediately to comply."

On motion of Mr. Patton, the following amendment was made to Rule 44:

In the seventh line, after the letter "a" and before the word "of," strike out "majority" and insert "two-thirds."

On motion of Mr. Anderson, Rule 38 was amended by adding "Committee on Territorial Affairs."

On motion of Mr. Anderson, fifty copies were ordered printed for the use of the House.

On motion of Mr. Word, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

House resumed its session at 2 P. M.

Roll called—Messrs. Simms and Gallaher absent.

On motion of Mr. Kennerly, the Select Committee on Printing were granted further time to report.

The Speaker then announced the following Standing Committees, to wit:

Ways and Means—Messrs. Rhodes, Boswell, and Gallaher.

Judiciary—Messrs. Word, Tennant, and Comly.

Internal Improvements—Messrs. Edwards, Patton, and Simms.

Public Lands—Messrs. Weston, Kennerly, and Anderson.

Federal Relations—Messrs. Comly, Word, and Anderson.

Education—Messrs. Tennant, Gallaher, and Edwards.

Towns and Counties—Messrs. Kennerly, Rhodes, and Simms.

Military—Messrs. Tennant, Kennerly, and Patton.

Incorporations—Messrs. Weston, Boswell, and Comly.

Agriculture and Manufactures—Messrs. Simms, Gallaher, and Weston.

Elections—Messrs. Kennerly, Edwards, and Patton.

Mines and Minerals—Messrs. Edwards, Rhodes, and Weston.

Engrossment—Messrs. Comly, Tennant, and Weston.

Enrollment—Messrs. Tennant, Patton, and Word.

Printing—Messrs. Word, Edwards, and Gallaher.

Territorial Affairs—Messrs. Anderson, Boswell, and Kennerly.

Roads and Highways—Messrs. Simms, Patton, and Boswell.

Finance—Messrs. Patton, Rhodes, and Weston.

Mr. Tennant moved that 100 copies of the Standing Committees be printed.

Mr. Anderson moved to amend by striking out "100" and inserting "50," which motion was adopted.

The motion was then adopted as amended.

On motion of Mr. Comly, 50 copies of the Order of Business were ordered printed.

On motion of Mr. Anderson, the House adjourned.

FOURTH DAY.

NOVEMBER 7, 1867.

The House met pursuant to adjournment.

Roll called—Messrs. Simms and Gallaher absent.

Journal of yesterday read and approved.

Mr. Anderson, chairman of the Select Committee on Printing, asked further time to report, and on motion of Mr. Kennerly, leave was granted.

The Speaker then announced the following Standing Committee on Indian Affairs: Messrs. Tennant, Boswell, and Gallaher.

Mr. Boswell gave notice that he would, on to-morrow or some subsequent day, introduce “An Act concerning certain officers of Montana Territory, declaring to whom resignations shall be made, when the office shall be deemed vacant, and the manner of filling vacancies.”

Mr. Anderson gave notice that, on to-morrow or some future day, he would introduce “An Act authorizing Professor G. C. Swallow to make a preliminary and superficial geological survey of the mineral and agricultural regions of the Territory of Montana, to define his duties, and making an appropriation for payment of his services as such, and the collection he is authorized to make.”

On motion of Mr. Comly, the following resolution was adopted :

Resolved, By the House of Representatives of Montana, that the rules as reported by the committee, as amended, *seriatim*, be adopted as the rules of this House, saving and excepting the

amendment to Rule 44, which shall remain as reported by the committee.

On motion of Mr. Word, the following resolution was adopted:

Resolved, That the Judiciary Committee of this House be directed to confer with the Judiciary Committee of the Council, and report as soon as possible upon the propriety and expediency of adopting the California Practice Act, for this Territory.

On motion of Mr. Edwards, the following resolution was adopted:

Resolved, That there be ordered, for the use of the members of this House, four copies of the Tri-Weekly, and four copies of the Weekly Montana *Post*, also, six copies of the Montana *Democrat*, and six copies of the Rocky Mountain *Gazette*.

On motion of Mr. Tennant, the vote by which the above resolution was adopted was reconsidered.

And on motion of Mr. Word, the following substitute was adopted:

Resolved, That the Secretary of the Territory be requested to furnish to each member of this House, one copy of the Tri-Weekly *Post*, as it is issued, four copies of the Weekly *Post*, six copies of the *Democrat*, and six copies of the *Gazette*.

On motion of Mr. Comly, the following preamble and resolution was adopted:

WHEREAS, It is the general opinion of the members of this House that the laws of the Second and Third Sessions of the Legislature of Montana were just, equitable and beneficial to the Territory, and that the action of Congress in suspending or annulling said laws was injurious to the people of this community, and in order that the wheels of government may continue to revolve smoothly, it is necessary that this Legislature should re-enact the aforesaid laws; therefore,

Resolved, That a committee of three be appointed from this House, to confer with a like committee from the Council as to the order in which said laws shall be taken up for action by this Legislature.

Messrs. Comly, Gallaher, and Word, were appointed such committee.

On motion of Mr. Kennerly, the House took a recess until 2 P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M.

Roll called—Messrs. Simms and Patton absent.

Mr. Anderson, chairman of the Select Committee, to whom was referred the duty of requesting the Secretary to bestow the public printing upon John P. Bruce, reported as follows, to wit:

MR. SPEAKER—Your Committee, with a like committee of the Council, to whom was referred the duty of requesting the Secretary to confer the printing of the acts and proceedings of the Legislature upon Major John P. Bruce, respectfully submit the answer of the Secretary for the action of the House.

SECRETARY'S OFFICE,
VIRGINIA CITY, M. T., Nov. 6, 1867. }

To the Hon. Messrs. Watson, Orr, Anderson and Word, Joint Committee of the Legislature of Montana:

GENTLEMEN—I have the honor to acknowledge the receipt of your communication, enclosing resolutions of both Houses, requesting the bestowal of the public printing upon John P. Bruce.

In reply to your very courteous request, I have to say that under instructions from the Treasury Department I deemed it my duty to make preparations for the public printing prior to the convening of your honorable body. To that end I have already directed D. W. Tilton & Co. to be in readiness to do the work.

I have the honor, and am your
Very ob't servant,

JAMES TUFTS,
Secretary of Montana Territory.

On motion of Mr. Boswell, the report was received, and the committee discharged.

On motion of Mr. Anderson, the report was laid on the table for further consideration.

A message from the Council was received, through their Chief Clerk, Mr. Wade, announcing that the Council had passed a concurrent resolution, creating an additional clerk for the House and Council.

On motion of Mr. Word, the Sergeant-at-Arms was instructed to inform the Secretary that the House of Representatives could not proceed with business until the Hall was put in a more comfortable condition.

On motion of Mr. Word, the House adjourned until 10 o'clock, A. M., to-morrow.

FIFTH DAY.

NOVEMBER 8, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Absent, Messrs. Simms and Patton.

Journal of yesterday read and approved.

The following notices for the introduction of bills were given:

By Mr. Kennerly, "A Bill to provide for storage and commission merchants."

By Mr. Gallaher, "An Act to amend an act entitled an act relative to elections."

By Mr. Edwards, "An Act concerning and regulating the discovery and possessory right of all placer mines."

By Mr. Anderson, "An Act providing for the payment of jurors in Montana Territory."

Also, "An Act supplementary to an act in relation to notaries public."

By Mr. Patton, "An Act to alter and amend the revenue law passed at the third session of the Montana Legislature."

In pursuance of notice, Mr. Boswell introduced House Bill No. 1, "An Act creating certain offices in the Territory of Montana, declaring to whom resignations shall be made, when the office shall be deemed vacant, and the manner of filling vacancies."

Read first and second time, and referred to Committee on Judiciary, and ordered printed.

Previous notice being given, Mr. Anderson introduced House Bill No. 2, "An Act authorizing Professor G. C. Swallow to make a preliminary and superficial geological survey of the mineral and agricultural region of the Territory of Montana; to define his duties, and making an appropriation for payment of his services as such, and the collection he is authorized to make."

Read first and second time, and referred to the Committee of Ways and Means, and ordered printed.

Mr. Word gave notice of the introduction of the following bill: "An Act entitled an act to amend an act concerning crimes and punishments."

A message was received from the Council, through their Chief Clerk, Mr. Wade, announcing the passage of Council Concurrent Resolution No. 1.

On motion of Mr. Anderson, Council Concurrent Resolution No. 1 was read.

On motion of Mr. Comly, the word "for," in the sixteenth line, was stricken out, and the word "by" inserted.

And, on motion of Mr. Anderson, the resolution was adopted, as amended.

The following communication from Major J. P. Bruce was received and read:

VIRGINIA CITY, M. T., }
November 8th, 1867. }

Hon. W. Stewart, Speaker of the House of Representatives, Montana Territory:

DEAR SIR—His Excellency Green Clay Smith, Governor of Montana, handed into the office of the Montana *Democrat* his Message and the documents accompanying the same, to be printed. The Message and documents are in type, and as no given number of the same has been suggested to be printed, I am in doubt how to act; and also, the Secretary having selected D. W. Tilton & Co. to do the public printing, of course this work, done at the request of the Governor, will not be paid for by the Secretary.

I respectfully ask the House to determine whether I shall proceed to print the Message, etc., and what number they desire to have printed.

I avail myself of this occasion to return my thanks, through you, to the House of Representatives, for the kind disposition manifested in the selection of myself as their choice for public printer of this session, and shall ever feel grateful for the honor thus conferred.

Respectfully, JNO. P. BRUCE.

On motion of Mr. Tennant, the communication was received, and ordered to be spread upon the journal.

On motion of Mr. Tennant, a Committee of two was appointed to inform Bishop Tuttle of his election as Chaplain of this House, and Mr. Speaker appointed Messrs. Tennant and Gallaher as such Committee.

On motion of Mr. Gallaher, the House proceeded to elect the additional Assistant Clerk provided for in Council Concurrent Resolution No. 1.

Nominations being in order, Mr. Boswell placed in nomination Mr. J. M. Clarkson, of Madison county.

Mr. Weston nominated William Freeman, of Jefferson county.

Mr. Anderson nominated Orlando Stewart, of Jefferson county.

There being no further nominations, the members cast their ballot, which resulted as follows:

Mr. Clarkson received 8 votes.

Mr. Freeman received 2 votes.

Mr. Stewart received 2 votes.

Whole number of votes cast, 12; necessary to a choice, 7.

Mr. Clarkson having received a majority of all the votes cast, was declared duly elected Assistant Clerk of the House.

Mr. Gallaher introduced the following resolution:

Resolved, That Major John P. Bruce, editor of the *Montana Democrat*, is hereby authorized to print, for the use of the House

of Representatives of the Territory of Montana, one thousand copies of the Governor's Message and accompanying documents.

On motion of Mr. Anderson, the resolution was referred to a Select Committee of three.

Messrs. Anderson, Boswell, and Gallaher, were appointed said Committee.

On motion of Mr. Gallaher, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Simms and Gallaher.

Mr. Comly, chairman of the Select Committee appointed to confer with a like Committee from the Council, reported as follows:

MR. SPEAKER—Your Committee, appointed on the part of the House to confer with a like Committee of the Council, to report the order in which the laws passed at the last two sessions shall be taken up in the respective Houses, beg leave to report, that they have had the matter under consideration, and think it unnecessary to take action on the same.

On motion of Mr. Tennant, the report was received, and the committee discharged.

On motion of Mr. Word, the report was adopted.

Mr. Anderson, chairman of the Select Committee on Printing, reported as follows:

MR. SPEAKER—Your Committee to whom was entrusted the duty of inquiring the cost of printing one thousand copies of the Governor's Message and accompanying documents, have consulted

with John P. Bruce on the subject, and herewith submit his reply for the consideration of the House:

HON. J. M. ANDERSON—The actual *cost* of one thousand copies of Message and accompanying documents, stitched, with covers, will be two hundred dollars in gold dust, or 20 cents a copy. It will make about sixteen pages, with several pages rule and figure work.

JNO. P. BRUCE.

All of which is respectfully submitted for the consideration of the House.

On motion of Mr. Anderson, the report was received.

Mr. Word moved to lay the report on the table. Motion lost.

On motion of Mr. Weston, the report was adopted.

The following message was received from the Council, through their Chief Clerk, Mr. Wade:

That C. B. No. 1 and C. B. No. 2 had passed the Council, and are herewith transmitted.

Mr. Word moved that Mr. Gallaher's resolution relative to printing the Governor's Message be laid on the table, upon which motion the ayes and nays were called, which resulted as follows:

Those voting in the affirmative were: Messrs. Anderson, Boswell, Comly, Gallaher, Kennerly, Patton, Tennant, and Word—8.

In the negative: Messrs. Edwards, Rhodes, Weston, and Mr. Speaker—4.

And the resolution was laid on the table.

On motion of Mr. Word, the following resolution was adopted:

Resolved, That five hundred copies of the Governor's Message be ordered for the use of this House, in addition to the number already ordered.

On motion of Mr. Anderson, the vote by which the above resolution was adopted was reconsidered.

On motion of Mr. Word, to adopt the resolution, the ayes and nays were called, which resulted as follows:

Ayes—Messrs. Comly, Kennerly, Patton, Tennant, and Word—5.

Nays—Messrs. Anderson, Boswell, Edwards, Gallaher, Rhodes, Weston, and Mr. Speaker—7.

And the resolution was lost.

C. B. No. 1, “An Act locating the county seat of Missoula county, was taken up, and read first and second time, and on motion of Mr. Word, the rules were suspended, and the bill read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—none.

C. B. No. 2, “An Act requiring criminals to perform labor,” was taken up, read first and second time, and referred to Committee on Judiciary.

On motion of Mr. Rhodes, the House adjourned.

SIXTH DAY.

NOVEMBER 9, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Simms and Kennerly.

Minutes of yesterday read and approved.

The following message was received from the Council, through their Chief Clerk, Mr. Wade:

That C. B. Nos. 10 and 11, had passed the Council.

Mr. Word, chairman of Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Judiciary Committee, designated by the House to confer with the Judiciary Committee of the Council, and report upon the expediency and propriety of adopting the California Civil Practice Act, beg leave to report that they have had a conference in regard to the same, and have concluded that in view of the crude and imperfect condition of our present Practice Act, and the time and labor of this session it would necessarily take to amend and improve it so as it would meet the wants of our Territory, it is highly expedient to adopt, in lieu of our own, the Civil Practice Act of California, with such alterations and amendments as will adapt it to the laws and institutions of our Territory, and would recommend that said Act be prepared for introduction into this House at an early day, under the auspices of your Judiciary Committee, and that said committee be authorized to command the services of an assistant clerk of this House in performing said labor.

Report received, and on motion of Mr. Anderson, adopted.

On motion of Mr. Word, Judge Lovell was requested to administer the oath of office to John M. Clarkson, Second Assistant Clerk of the House, which duty was duly performed.

Mr. Word, chairman of the Committee on Printing, reported as follows:

MR. SPEAKER—Your Committee on Printing, to whom was referred House Bill No. 1, beg leave to report that they have carefully examined the same and find it correctly printed.

On motion of Mr. Anderson, the report was received and adopted.

Mr. Word, chairman of Judiciary Committee, reported as follows, upon C. B. No. 2:

MR. SPEAKER—Your Committee, to whom was referred Council Bill No. 2, being “An Act requiring criminals to perform labor,” beg leave to report the same back to the House, and recommend that it pass without amendment.

On motion, the report was received and adopted.

Mr. Word also reported back House Bill No. 1, as follows:

MR. SPEAKER—Your Committee, to whom was referred House Bill No. 1, beg leave to report the same back, with the recommendation that the same be referred to the Committee of the Whole.

Report received and adopted.

The following notices were given for the introduction of bills:

By Mr. Word, A Bill to be entitled “An Act amendatory of an act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana.”

By Mr. Comly, A Bill entitled “An Act concerning corporations.”

Previous notice being given, Mr. Anderson introduced H. B. No. 3, “An Act providing for the payment of jurors in Montana Territory.” Read first and second time, and ordered printed.

Mr. Anderson also introduced H. B. No. 4, "An Act supplementary to an act in relation to notaries public." Read first and second time, and ordered printed.

C. B. No. 10, "An Act declaring what shall be a lawful fence," was taken up, read first and second time, and referred to the Committee on Agriculture.

Also, C. B. No. 11, "An Act to provide for a census to be taken in the year 1868." Read first and second time, and referred to the Committee on Territorial Affairs.

On motion of Mr. Comly, the House resolved itself into a Committee of the Whole, to consider H. B. No. 1.

The Committee of the Whole arose and reported progress, with leave to sit again.

On motion of Mr. Comly, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Kennerly, Patton, and Simms.

The House then resolved itself into Committee of the Whole, to consider H. B. No. 1.

House resumed. Mr. Speaker in the chair, and Mr. Comly reported as follows, upon H. B. No. 1:

MR. SPEAKER—The Committee of the Whole, to whom was referred the consideration of H. B. No. 1, report it back to the House, and recommend its passage, with the following amendments:

Substitute for section three—

“ SEC. 3. The Territorial Treasurer, Auditor and Superintendent of Public Instruction shall be elected by the Legislative Assembly upon joint ballot, who shall be commissioned by the Governor, and shall hold their office until next general election in the year 1868, and until their successors be elected and qualified; and that at the next general election in the year 1868, and every two years thereafter, there shall be elected by the people a Territorial Treasurer, Auditor and Superintendent of Public Instruction, who shall hold their offices for the term of two years and until their successors be elected and qualified.”

SEC. 1. After 9th line, “ provided that the persons in the several judicial districts of this Territory who received a majority of the votes cast in their respective districts for the office of District Attorney at the September election, A. D. 1867, are hereby declared elected the District Attorneys of their respective districts, and shall hold their office until the general election in A. D. 1869, and until their successors are elected and qualified.”

Substitute for section eleven :

“ SEC. 11. When at any time there shall be in any of the district offices of this Territory no officer duly authorized to execute the duties thereof, some suitable person may be appointed by the Governor to perform the duties of said office.”

Substitute for section thirteen :

“ SEC. 13. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.”

“ SEC. 14. This act shall take effect and be in force from and after its passage and approval by the Governor.”

The following communication was received from the Council, through their Chief Clerk, Mr. Wade:

That the Council had passed C. B. No. 7, “ An Act fixing the time of the meeting of the Legislative Assembly of Montana Territory.”

C. B. No. 2, “ An Act requiring criminals to perform labor,” was put upon its final passage.

Read third time, and passed by the following vote :

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Kennerly, and Simms.

The title was then agreed to.

C. B. No. 7, “An Act fixing the time for the meeting of the Legislative Assembly of Montana Territory,” was taken up.

Read first and second time, and on motion, the rules were suspended, and bill put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Kennerly, Gallaher, and Simms.

Title agreed to.

A communication was received from the Council, through Mr. Wade, their Chief Clerk, giving notice of the appointment of Messrs. Rand and Davis as a committee to prepare joint rules for the government of the two Houses, and asking the House to appoint a like committee to act in conjunction.

Mr. Word introduced the following resolution, which was adopted :

Resolved, That a committee of two be appointed on the part of this House, to act with the Council committee, to report joint rules for the government of both Houses.

Mr. Speaker appointed Messrs. Word and Weston said committee.

On motion of Mr. Word, the House adjourned to 10 o'clock, A. M., on Monday.

EIGHTH DAY.

NOVEMBER 11. 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Patton and Simms.

Journal of Saturday read and approved.

Mr. Anderson, chairman of Committee on Territorial Affairs, reported as follows :

MR. SPEAKER—Your Committee, to whom was referred Council Bill No. 11, being “An Act to provide for a census to be taken in the year 1868,” beg leave to report the same back to the House, and recommend that it pass, without amendment.

Mr. Word, chairman of the Committee on Printing, reported as follows :

MR. SPEAKER—Your Committee, to whom was referred House Bills Nos. 3 and 4, beg leave to report that they have carefully examined the same, and find them correctly printed.

On motion of Mr. Kennerly, the Committee on Joint Rules was granted further time to report.

Notices for the introduction of bills were given—

By Mr. Comly, “An Act to amend an act entitled an act for the location of the seat of government in and for the Territory of Montana.”

By Mr. Boswell, “An Act defining the duties of assessors in the several counties in Montana Territory.”

By Mr. Rhodes, "An Act to amend an act regulating the fees of officers, jurors and witnesses, approved February 9, 1865."

By Mr. Weston, "An Act to amend an act concerning license, approved February 9, 1865."

By Mr. Edwards, "An Act concerning malfeasance in office."

By Mr. Gallaher, "An Act for the relief of John Gay."

By Mr. Anderson, "An Act to amend an act entitled an act securing liens to mechanics and others, approved December 30, 1864."

Previous notice being given, Mr. Kennerly introduced H. B. No. 5, "An Act to provide for storage and commission merchants to dispose of wares, merchandise and machinery for the storage of the same, or freight money advanced thereon."

Read first and second time, and ordered printed.

C. B. No. 11 was then taken up, and passed to a third reading.

Read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was then agreed to.

H. B. No. 3 was, on motion, referred to Committee on Judiciary.

Mr. Comly, chairman of the Committee on Engrossment, reported House Bill No. 1 correctly engrossed.

Report received.

H. B. No. 4 was, on motion, referred to Committee on Judiciary.

H. B. No. 1 was put upon its final passage. Read the third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

Mr. Word, chairman of the Committee on Printing, reported H. B. No. 2 as correctly printed.

On motion of Mr. Weston, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Notice for the introduction of the following bills was given:

By Mr. Comly, “An Act to protect bridges, mills, dams, flumes, aqueducts, reservoirs, and for other purposes.”

By Mr. Word, “An Act defining the Council and Representative Districts of the Territory of Montana, and apportioning the members of the Legislative Assembly thereof.”

By Mr. Kennerly, “An Act to confer the rights of citizenship upon Joseph Kipp.”

By Mr. Word, “An Act to dissolve the bonds of matrimony existing between Thomas Kent and Jennie Kent.”

Mr. Word, chairman of the Committee on Judiciary, reported as follows upon H. B. No. 4 :

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 4, beg leave to report the same back to the House, and recommend that it be referred to the Committee of the Whole.

Mr. Word also reported as follows, upon H. B. No. 3 :

MR. SPEAKER—Your Committee, to whom was referred House Bill No. 3, beg leave to report the same back to the House, with the recommendation that it be referred to the Committee of the Whole.

Report adopted, and, on motion of Mr. Word, the House resolved itself into a Committee of the Whole.

House resumed. Mr. Speaker in the chair.

Mr. Word, chairman of the Committee of the Whole, reported as follows :

MR. SPEAKER—Your Committee of the Whole, to whom was referred H. B. No. 4, beg leave to report that they have had the same under consideration, and report the same back to the House with the recommendation that it pass.

Report received.

Mr. Word offered the following amendment to H. B. No. 4, which was adopted :

In line 3, section 1, strike out the words "such clerk," and insert the words "the Secretary of the Territory."

The bill was then ordered engrossed, as amended, for a third reading.

On motion of Mr. Tennant, the House resolved itself into a Committee of the Whole, to consider H. B. No. 3.

House resumed. Mr. Speaker in the chair.

Mr. Boswell, chairman of the Committee of the Whole, was granted time to report.

The following communication was received from the Council, through their Chief Clerk, Mr. Wade :

Mr. Rand gave notice that he would, on to-morrow or some subsequent day, introduce a bill for "An Act defining the duties of Territorial Auditor and Territorial Treasurer of the Territory of Montana."

Mr. Watson gave notice that he would introduce a bill, entitled "An Act creating the office of master in chancery; and defining his powers and duties."

The following bills have passed the Council :

C. B. No. 16, entitled "An Act to prescribe the rate of interest," C. B. No. 9, "An Act concerning highways, and to prevent the obstruction thereof," C. B. No. 13, entitled "An Act to establish the boundary lines of Edgerton county."

Mr. Boswell, chairman of Committee of the Whole, reported as follows, upon H. B. No. 3:

MR. SPEAKER—Your Committee of the Whole, to whom was referred H. B. No. 3, beg leave to report the same back to the House, and recommend that it pass, with the following amendments :

Strike out section 6, and substitute the following :

"SECTION 6. If any party or parties to an action before a justice of the peace shall demand a jury, the justice of the peace shall require said party or parties to deposit money sufficient to pay the costs and fees accruing from the summoning and sitting of said jury, or shall give bonds, with approved security, in a sufficient amount, for the payment of said costs and fees, and the same shall be taxed against, and recovered from the unsuccessful party or parties in said action."

Strike out section 2; make section 3, section 2; section 4, section 3; section 5, section 4; section 6, section 5; section 7, section 6; section 8, section 7.

In the title to said bill, insert the words "witnesses and officers" after the word "jurors."

The report was concurred in, and the bill ordered engrossed as amended, for a third reading.

On motion of Mr. Tennant, the House adjourned to 10 o'clock, A. M., to-morrow.

NINTH DAY.

NOVEMBER 12, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Edwards, Simms, and Word.

Journal of yesterday read and approved.

Mr. Weston gave notice that he would, on to-morrow, or some subsequent day, introduce an act requiring the clerks of the district courts to give bonds.

Previous notice having been given, Mr. Anderson introduced H. B. No 6, "An Act to amend an act securing liens to mechanics and others." Read first and second time, and referred to Committee on Printing.

Mr. Comly introduced H. B. No. 7, "An Act to amend an act entitled an act locating the seat of government in and for the Territory of Montana." Read first and second time, and referred to Committee on Printing.

H. B. No. 8 was introduced by Mr. Edwards, "An Act concerning malfeasance in office." Read first and second time, and referred to Committee on Printing.

C. B. No. 9 was taken up; "An Act concerning highways and to prevent obstructions thereof." Read first and second time, and on motion of Mr. Word, made the special order for 2 o'clock, P. M., to be considered by the Committee of the Whole.

C. B. No. 13 was taken up ; “ An Act to establish the boundary lines of Edgerton county.” Read first and second time, and referred to Committee on Towns and Counties.

C. B. No. 16 was taken up ; “ An Act to prescribe the rate of interest.” Read first and second time, and

On motion of Mr. Word, the rules were suspended, and the bill read the third time, and put upon its final passage.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

The title was agreed to.

Mr. Comly, chairman of the Committee on Engrossment, reported H. B. No. 4 as correctly engrossed.

H. B. No. 4, “ An Act supplementary to an act in relation to notaries public.” Read third time, and passed by the following vote :

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Word, Weston, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was then agreed to.

The following communication was received from the Council, through their Chief Clerk, Mr. Wade :

That Mr. Rand gave notice that he would introduce “ An Act locating the penitentiary of Montana.”

That Mr. Cullen would introduce “ An Act relative to attorneys and counselors-at-law.”

On motion of Mr. Anderson, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—Absent, Mr. Simms.

On motion of Mr. Anderson, the House resolved itself into a Committee of the Whole, to consider special order No. 1, C. B. No. 9.

House resumed. Mr. Speaker in the chair.

On motion of Mr. Word, Mr. Anderson was granted until 10 o'clock, A. M., Wednesday, to make a report as chairman of the Committee of the Whole upon C. B. No. 9.

Mr. Word, chairman of the Judiciary Committee, reported as follows:

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 5, being “An Act providing for storage and commission merchants to dispose of goods, wares, merchandise and machinery for storage on the same, and for money advanced as freight thereon,” beg leave to report the same back to the House and recommend its passage, with the following as a substitute for section No. 1:

“SECTION 1. That any storage or commission merchant receiving goods, wares, merchandise or machinery from any party for storage, after keeping the same in store for the term of sixty days or more, may, in default of the payment of the storage or freight money on such goods, wares, merchandise or machinery, advertise and sell the same at public auction to the highest bidder for cash in hand, first giving notice of the time, terms and place of sale, and a description of the property to be sold, by publication in some newspaper published in the county where the property may be stored.

“Said notice shall be published at least thirty days previous to

the day of sale, and shall specify the amount due on the property to be sold. *Provided*, that when a specified time has been agreed upon between the parties for the storage of such property, the same shall not be advertised until the expiration of the time agreed upon.

“Should there be no newspaper published in the county where such goods, wares, merchandise or machinery are stored, then notice may be given in the nearest newspaper published thereto in some other county in Montana.”

Report received, and on motion of Mr. Kennerly, the report, with the bill, was referred to the Committee of the Whole, and made the special order for 2 o'clock, P. M., on Wednesday.

Mr. Comly, chairman of the Committee on Engrossment, reported H. B. No. 3 correctly engrossed.

Mr. Anderson gave notice that he would, on to-morrow or some subsequent day, introduce “An Act to provide for marks instead of signatures.”

H. B. No. 3, “An Act providing for the payment of jurors, witnesses and officers of Montana Territory,” was put upon its final passage, read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—11.

Nay—Mr. Word.

Absent—Mr. Simms.

The title was agreed to.

On motion of Mr. Comly, the House adjourned.

TENTH DAY.

NOVEMBER 13, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Edwards, Gallaher, Kennerly, Patton, Simms, Weston, and Word.

No quorum being present, the Sergeant-at-Arms was ordered to bring in the absent members.

Messrs. Edwards, Patton, and Rhodes, reported present.

Minutes of yesterday read and approved.

Mr. Word, chairman of the Select Joint Committee, reported as follows:

MR. SPEAKER—Your Special Committee, appointed to confer with a like Committee of the Council, and report joint rules for the government of both Houses, beg leave to report, that they have had such conference, and have agreed to report the joint rules adopted at the third session of the Montana Legislature, and which are now printed and in possession of the House, and recommend that they be adopted as the joint rules of Council and House for this session.

Report received.

Mr. Word gave notice, that he would on to-morrow introduce a bill for an act entitled “An Act to amend an act entitled an act to incorporate the city of Virginia, approved December 30th, 1864.”

Mr. Comly, previous notice being given, introduced House Bill No. 9, "An Act to protect bridges, flumes, mills, dams, aqueducts, reservoirs, etc."

Read first and second time, and referred to the Committee on Internal Improvements.

Mr. Anderson introduced H. B. No. 10, "An Act to provide for marks instead of signatures."

Read first and second time, and referred to the Judiciary Committee.

Mr. Anderson, chairman of the Committee of the Whole, to whom was referred C. B. No. 9, reported as follows:

MR. SPEAKER—The Committee of the Whole have had under consideration C. B. No. 9, being "An Act concerning highways, and to prevent obstruction thereof," beg leave to report the same back to the House, with the following amendments, to wit:

- 1st. That section one be stricken out.
- 2nd. That section two be stricken out.
- 3rd. That section three be stricken out.
- 4th. That the title of said bill be amended so as to read, "An Act declaratory of the common law."

On motion of Mr. Word, the report was laid on the table.

The following message was received from the Council, through their Assistant Clerk, Mr. Menaugh:

MR. SPEAKER—I am directed by the Council to inform the House, that—

C. B. No. 12, entitled "An Act to define the boundary lines of Missoula county, has passed the Council.

Also, C. B. No. 8, entitled "An Act regulating descents and distributions," has passed the Council.

Also, C. B. No. 20, entitled "An Act amendatory of an act entitled an act regulating the holding of elections in Montana Territory," has passed the Council.

Also, that Mr. Davis gave notice, that he would introduce "A Bill dissolving the bonds of matrimony between R. K. Findlay and Elizabeth Findlay."

C. B. No. 9 was then read for information.

Mr. Comly moved that the bill be read the third time.

On motion of Mr. Word, the motion and bill were laid on the table for further consideration.

The report of the Joint Committee on Rules for the government of the two Houses, was, on motion of Mr. Patton, adopted.

C. B. No. 8 was taken up, "An Act concerning descents and distribution," read first and second time, and referred to the Committee on Judiciary.

C. B. No. 12 was taken up, "An Act to define the boundary lines of Missoula county," read the first and second time, and referred to the Committee on Towns and Counties.

C. B. No. 20, "An Act amendatory of an act entitled an act relative to the holding of elections in Montana Territory, approved January 17th, 1865," was taken up, read first and second time, and referred to the Committee on Judiciary.

Mr. Word, chairman of the Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Judiciary Committee, to whom was referred House Bill No. 10, beg leave to report the same back, and recommend its passage.

Report received and concurred in.

On motion of Mr. Comly, the bill was considered engrossed, read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—none.

Absent—Messrs. Kennerly and Simms.

The title was agreed to.

On motion of Mr. Anderson, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session, at 2 o'clock, p. m. Mr. Speaker in the chair.

Roll called—absent, Messrs. Kennerly, Simms, and Weston.

On motion of Mr. Anderson, the House went into Committee of the Whole, to consider H. B. No. 5.

The House resumed. Mr. Speaker in the chair.

Mr. Anderson, chairman of the Committee of the Whole, reported as follows, on H. B. No. 5, being "An Act to provide for storage and commission merchants to dispose of goods, wares, merchandise and machinery," and recommend that it pass, with the following substitute for section No. 1:

"SECTION 1. That any storage or commission merchant receiving goods, wares, merchandise or machinery from any party for storage, after keeping the same in store for the term of sixty days or more, may, in default of the payment of the storage or freight money on such goods, wares, merchandise or machinery, advertise and sell the same at public auction to the highest bidder for cash in hand, first giving notice of the time, terms and place of sale, and a description of the property to be sold, by publication in some newspaper published in the county where the property may be stored.

"Said notice shall be published at least thirty days previous to the day of sale, and shall specify the amount due on the property to be sold. *Provided*, That when a specified time has been agreed upon between the parties for the storage of said property, the same shall not be advertised until the expiration of the time agreed upon.

"Should there be no newspaper published in the county where such goods, wares, merchandise or machinery are stored, then notice may be given in the nearest newspaper published thereto in some other county in Montana."

Report received.

On motion of Mr. Comly, the report was concurred in, and the bill ordered engrossed as amended for a third reading.

Mr. Word, chairman of Committee on Printing, made the following report:

MR. SPEAKER—Your Committee, to whom was referred House Bill No. 8, being “An Act concerning malfeasance in office,” beg leave to report that they have examined the same, and find it correctly printed.

Report received.

Mr. Edwards, chairman of the Committee on Internal Improvements, reported as follows upon H. B. No. 9:

The Committee on Internal Improvements, to whom House Bill No. 9 was referred, beg leave to report the same back to the House, recommending its passage.

Report received.

C. B. No. 15, “An Act to prevent the sale of intoxicating liquors to Indians in Montana Territory,” was taken up, read first and second time, and referred to the Committee on Indian Affairs.

C. B. No. 17, “An Act to divide the county of Gallatin,” was taken up, read the first and second time, and referred to a Select Committee of three.

The Speaker appointed Messrs. Weston, Gallaher, and Kennerly.

Mr. Wade, Chief Clerk of the Council, delivered the following message from the Council:

That H. B. No. 1 had passed the Council, with the accompanying amendments.

The amendments of the Council were, on motion of Mr. Comly, concurred in, the bill passed, and ordered enrolled.

H. B. No. 9 was, on motion of Mr. Word, indefinitely postponed.

H. B. No. 8 was, on motion, referred to the Committee on Judiciary.

Mr. Word, chairman of Committee on Printing, reported H. B. Nos. 6 and 7 correctly printed.

H. B. No. 6 was, on motion, referred to the Committee on Territorial Affairs.

Mr. Word moved that H. B. No. 7 be referred to a Select Committee of three. Lost.

The bill was then referred to the Committee on Territorial Affairs.

On motion of Mr. Anderson, the House adjourned.

ELEVENTH DAY.

NOVEMBER 14, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Kennerly and Simms.

Journal of yesterday read and approved.

Mr. Anderson, chairman of Committee on Territorial Affairs, reported as follows, upon H. B. No. 7 :

MR. SPEAKER—The Committee on Territorial Affairs, to whom was referred H. B. No. 7, being “An Act to amend an act entitled an act for the location of the seat of government in and for the Territory of Montana,” beg leave to report that they have had the same under consideration, and recommend that it pass without amendment.

Report received.

Mr. Boswell, chairman of Committee on Indian Affairs, reported as follows :

MR. SPEAKER—Your Committee on Indian Affairs, to whom was referred C. B. No. 15, have had the same under consideration, and report the same back to the House, and recommend its passage.

Report received.

Mr. Tennant, chairman of the Committee on Enrollment, reported H. B. No. 1 correctly enrolled.

Mr. Weston, chairman of the Select Committee, to whom was referred C. B. No. 17, reported as follows:

MR. SPEAKER—Your Select Committee, to whom was referred C. B. No. 17, having had the same under consideration, report it back to the House without amendment, and recommend its passage.

Report received.

Previous notice being given, Mr. Word introduced H. B. No. 11, “An Act to amend an act entitled an act to incorporate the city of Virginia, approved December 30, 1867.” Read first and second time, and referred to the Committee on Printing.

A message was received from the Council, through their Assistant Clerk, Mr. Menaugh, that C. B. No. 6 had passed the Council.

C. B. No. 6, “An Act defining the duties of the county commissioners of the several counties of Montana Territory.”

Read first and second time, and referred to the Judiciary Committee.

C. B. No. 15 was put upon its final passage.

Read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms.

The title was agreed to.

C. B. No. 17 was put upon its final passage.

Read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms.

The title was agreed to.

Mr. Anderson moved to consider H. B. No. 7 as engrossed, and put upon its final passage.

Mr. Word moved to lay that motion on the table.

Motion lost.

Mr. Anderson withdrew his motion.

Mr. Word offered the following amendment :

Amend section one by striking out the words "Helena, Edgerton county," in second line, and inserting the words "Deer Lodge City, Deer Lodge county."

Amend section three, by striking out the words "City of Helena," in the first line, and inserting the words "Deer Lodge City."

Ayes and nays called, which resulted as follows :

Ayes—Messrs. Edwards, Gallaher, Patton, Weston, and Word—5.

Nays—Messrs. Anderson, Boswell, Comly, Rhodes, Tennant, and Mr. Speaker—6.

Absent—Mr. Simms.

The amendment was lost.

Mr. Wood offered the following amendment, upon which the ayes and nays were called :

Amend section two, by adding after the figures "1868," the following :

"Provided, That the qualified voters of this Territory shall not, by any provision of this act, be prevented from voting for any point for the location of the seat of government that they may desire, and that the point designated by a majority of the votes shall, by proclamation, be declared the seat of government."

Ayes—Messrs. Edwards, Gallaher, Patton, Weston, and Word—5.

Nays—Messrs. Anderson, Boswell, Comly, Rhodes, Tennant, and Mr. Speaker—6.

The amendment was lost.

Mr. Gallaher moved to adjourn to 2 p. m. Ayes and nays called.

Mr. Gallaher moved a call of the House.

Roll called—absent, Messrs. Kennerly and Simms.

Sergeant-at-Arms sent for the absentees.

Sergeant-at-Arms reported Mr. Kennerly in his seat.

On the motion to adjourn, the ayes and nays were as follows:

Ayes—Messrs. Edwards, Gallaher, Patton, and Word—4.

Nays—Messrs. Anderson, Boswell, Comly, Kennerly, Rhodes, Tennant, Weston, and Mr. Speaker—8.

The motion was lost.

The previous question was then put, with the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Kennerly, Rhodes, Tennant, Weston, and Mr. Speaker—8.

Nays—Messrs. Edwards, Gallaher, Patton, and Word—4.

The question was then put, “Shall the bill be considered engrossed for a third reading?”

Ayes and nays called.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Rhodes, Tennant, Weston, and Mr. Speaker—9.

Nays—Messrs. Gallaher, Patton, and Word—3.

The motion passed.

The bill was then read for information.

H. B. No. 7, “An Act to amend an act entitled an act locating the seat of government,” was read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—10.

Nays—Messrs. Gallaher and Word—2.

Absent—Mr. Simms.

The title was agreed to.

Mr. Patton gave notice that he would, on to morrow, introduce a motion to reconsider the vote by which H. B. No. 7 was passed.

On motion of Mr. Word, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Simms and Tennant.

The following communication was received from Judge Lovell :
To the Honorable House of Representatives of the Fourth Legislative Assembly of the Territory of Montana :

GENTLEMEN—In June last I conceived the idea of a cabinet of the minerals, ores, fossils, etc., of this Territory, to be denominated “The Territorial Cabinet,” promising contributors that when your honorable body should meet, that the same should be placed at your disposal.

I have now the pleasure of redeeming my promise, by informing you that the same is at your disposal, for the Territory and the public good.

Respectfully,

Wm. Y. LOVELL.

Virginia City, M. T., Nov. 14, 1867.

On motion of Mr. Word, the communication was referred to the Committee on Territorial Affairs.

Mr. Comly, chairman of Committee on Engrossment, reported H. B. No. 5 correctly engrossed.

On motion, the chairman of Committee on Towns and Counties was granted further time to report on C. B. No. 13.

Mr. Weston gave notice that he would, on to-morrow or some subsequent day, introduce a bill, entitled "An Act concerning the registration of births and deaths."

In accordance with previous notice, Mr. Kennerly introduced H. B. No. 12, "An Act conferring the rights of citizenship upon Joseph Kipp."

Read first and second time, and referred to Committee on Territorial Affairs.

Motion of Mr. Kennerly to adjourn was lost.

The following message was received from the Council, through their Chief Clerk, Mr. Wade:

That C. B. No. 19, "An Act to authorize the county commissioners of the different counties of Montana to fund the debt of their respective counties," had passed the Council.

Also, C. B. No. 24, "An Act locating the penitentiary in the Territory of Montana," had passed the Council.

And that the following notices of the introduction of bills was given:

By Mr. Rand, a bill for "An Act providing for the election of county attorneys, and defining their duties."

By Mr. Davis, a bill "To provide for a system of common schools for the Territory of Montana."

C. B. No. 19 was then taken up, read first and second time, and referred to Committee of Ways and Means.

Also, C. B. No. 24, read first and second time, and referred to Committee on Territorial Affairs.

H. B. No. 5 was read third time, and passed by the following votes :

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Kennerly and Simms.

Title agreed to.

On motion of Mr. Anderson, C. B. No. 9 was taken from the table.

Mr. Anderson then offered the following amendment to C. B. No. 9, which was adopted :

Add at the end of section one the following : “ Excepting such roads and highways upon which franchises have heretofore been granted.”

The bill, as amended, was then read third time, and passed by the following vote :

Ayes—Messrs. Anderson, Boswell, Edwards, Patton, Rhodes, Weston, and Mr. Speaker—7.

Nays—Messrs. Comly, Tennant, and Word—3.

Absent—Messrs. Gallaher, Kennerly, and Simms.

Title agreed to.

Mr. Tennant gave notice that on to-morrow, or some future day, he would introduce a bill, entitled “An Act to re-enact an act entitled an act to authorize C. D. Loutsenheizer, A. J. Burr and C. C. Stubbs, their heirs and assignees, to maintain and keep a ferry on the Missouri river, at the mouth of Trout Creek, in Meagher county.”

Mr. Word, by consent, introduced H. J. R. No. 1, "Authorizing the Territorial Auditor to pay for an arsenal and magazine."

Read first and second time, and, on motion, referred to Committee of Ways and Means.

On motion of Mr. Comly, the House adjourned.

TWELFTH DAY.

NOVEMBER 15, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher and Simms.

Mr. Word, chairman of the Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred House Bill No. 8, being “An Act concerning malfeasance in office,”

Also, Council Bill No. 6, being “An Act defining the duties of county treasurers of the several counties of Montana,”

Also, Council Bill No. 8, being “An Act regulating descents and distributions,”

Beg leave to report the same back to the House, and recommend that they be referred to the Committee of the Whole for consideration and amendment.

Report received.

Mr. Rhodes, chairman of the Committee on Ways and Means, reported as follows, upon H. J. R. No. 1:

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred House Joint Resolution No. 1, have had the same under consideration, and would respectfully recommend that it pass the House.

Report received.

Also, as follows, upon Council Bill No. 19 :

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred Council Bill No. 19, have had the same under consideration, and would recommend that it pass the House.

Report received.

Mr. Anderson, chairman of the Committee on Territorial Affairs, reported as follows :

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred Council Bill No. 24, being “An Act locating the penitentiary in the Territory of Montana,” beg leave to report the same back to the House, with the recommendation that it pass without amendment.

Report received.

Mr. Kennerly, chairman of the Committee on Towns and Counties, made the following report :

MR. SPEAKER—Your Committee on Towns and Counties, to whom was referred C. B. Nos. 12 and 13, beg leave to report that they have had the same under consideration, and respectfully recommend their passage.

Report received.

The following notices for the introduction of bills were given :

By Mr. Word, A Bill to be entitled “An Act to re-enact an act incorporating the Great Beaver Head Wagon Road Company, passed at the second session of the Legislature of Montana.”

By Mr. Gallaher, A Bill for “An Act establishing a Territorial cabinet, and for other purposes.”

Previous notice having been given, Mr. Tennant introduced H. B. No. 13, “An Act entitled an act to re-enact an act to authorize C. D. Loutsenheizer, A. J. Burr, and C. C. Stubbs, to establish a ferry on the Missouri river.” Read first and second time, and referred to Committee on Incorporations.

H. B. No. 14, "An Act to provide for the compensation of John Gay for services rendered the Territory."

Read first and second time, and referred to a Select Committee of three.

The Speaker appointed Messrs. Word, Gallaher, and Weston.

Mr. Weston introduced H. B. No. 15, "An Act requiring the clerks of the district court to give bonds." Read first and second time, and referred to the Committee on Judiciary.

Mr. Comly moved to reconsider the vote by which H. B. No. 7 was passed.

Mr. Anderson moved to lay the motion on the table. Ayes and nays demanded.

Roll called.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Rhodes, Tennant, and Mr. Speaker—8.

Nays—Messrs. Gallaher, Patton, Weston, and Word—4.

Absent—Mr. Simms.

The motion was laid on the table.

The report of the Committee on Judiciary was adopted, and C. B. Nos. 6 and 8, and H. B. No. 8, were referred to the Committee of the Whole, to be considered at 2 P. M.

H. J. R. No. 1, "Authorizing the Auditor to pay for an arsenal and magazine," was read third time, and put upon its final passage, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Tennant and Simms.

The title was agreed to.

C. B. No. 13, "An Act to establish the boundary lines of Edgerton county," was read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Tennant and Simms.

The title was agreed to.

C. B. No. 24, “An Act locating the penitentiary in the Territory of Montana,” was put upon its final passage, read the third time, and passed by the following vote:

Ayes—Messrs. Anderson, Comly, Boswell, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Simms and Tennant.

Title agreed to.

Mr. Comly moved to reconsider the vote by which C. B. No. 24 was passed.

Mr. Anderson moved to lay the motion on the table.

Ayes and *nays* were called.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Simms and Tennant.

The motion was laid on the table.

C. B. No. 12, “An Act to define the boundary lines of Missoula county,” was put upon its final passage, read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Simms and Tennant.

Title agreed to.

On motion of Mr. Word, C. B. No. 19 was referred to the Committee of the Whole.

Mr. Comly moved to adjourn to 10 o'clock, to-morrow. Lost.
Mr. Word moved to take a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

On motion of Mr. Word, Council Bills Nos. 6, 8 and 19, and House Bill No. 8, were taken from the Committee of the Whole.

C. B. No. 19 was put upon its final passage, read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

Title agreed to.

C. B. No. 6 was put upon its final passage, read the third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

Title agreed to.

C. B. No. 8 was taken up, and Mr. Word offered the following amendment, which was adopted:

Amend by striking out the word “intestines” where it occurs in the bill, and insert “intestate.”

Strike out the word "thare" where it occurs in said bill, and insert the word "their."

Strike out the word "desent" where it occurs in said bill, and insert the word "descent," and correct the orthography wherever necessary.

The amendments were, on motion, considered engrossed, and the bill put upon its final passage.

Read third time and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was agreed to.

H. B. No. 8, "An Act concerning malfeasance in office," was taken up, and, on motion of Mr. Word, indefinitely postponed.

On motion of Mr. Tennant, the House adjourned.

THIRTEENTH DAY.

NOVEMBER 16, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Journal of yesterday read and approved.

Mr. Weston, chairman of the Committee on Incorporations, made the following report:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 13, entitled “An Act to re-enact an act to authorize C. D. Loutsenheizer, A. J. Burr and C. C. Stubbs, to establish a ferry,” having had the same under consideration, report it back to the House without amendment, and recommend its passage.

Report received.

Mr. Kennerly, chairman of the Committee on Elections, reported as follows:

MR. SPEAKER—Your Committee on Elections, to whom was referred C. B. No. 20, being “An Act amendatory of an act regulating the holding of elections in Montana,” beg leave to report that they have had the same under consideration, and respectfully recommend its passage, with the following amendment, to wit:

In section 3, fourteenth line, strike out the word "or," where it occurs the second time in said fourteenth line, and insert the word "and."

Report received.

Mr. Anderson, chairman of the Committee on Territorial Affairs, reported as follows:

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred H. B. No. 12, being "An Act conferring the rights of citizenship on Joseph Kipp," beg leave to report the same back to the House, and recommend its passage, without amendment.

Report received.

Mr. Word introduced H. B. No. 16, "An Act to re-enact an act entitled an act to incorporate the Great Beaver Head Wagon Road Company."

Read first and second time, and referred to the Committee on Incorporations.

H. B. No. 12 was considered engrossed, and put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was agreed to.

H. B. No. 13 was, on motion, considered engrossed, and put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

Title agreed to.

Mr. Gallaher moved to adjourn to ten o'clock Monday morning.

Motion lost.

On motion of Mr. Comly, the House took a recess until 2 o'clock,
P. M.

AFTERNOON SESSION.

House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Absent—Messrs. Simms and Tennant.

H. B. No. 17, "An Act concerning registration of births and deaths," was introduced by Mr. Weston, in accordance with previous notice.

Read first and second time, and referred to the Committee on Territorial Affairs.

The following communication was received from the Council, through their Chief Clerk, Mr. Wade:

MR. SPEAKER—I am directed by the Council to inform the House, that the House amendments to C. B. No. 8, "An Act regulating descents and distributions," have been concurred in by the Council.

Also, that House amendments to C. B. No. 9, "An Act concerning highways, and to prevent obstruction thereof," have been concurred in by the Council.

C. B. No. 23 was read first and second time, and referred to the Committee on Judiciary.

C. B. No. 25, "An Act divorcing Robert K. Findlay and Elizabeth Findlay," was read first and second time, and referred to the Committee on Incorporations.

Mr. Tennant introduced the following resolution, which was, on motion of Mr. Comly, adopted :

Resolved, That the members of the Legislative Assembly tender to the Governor, Green Clay Smith, their thanks for his kindness in having distributed to the several members of the Assembly a quantity of garden seeds.

On motion, the House adjourned to Monday, at 10 o'clock, **A. M.**

FIFTEENTH DAY.

NOVEMBER 18, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Mr. Simms absent.

Prayer by the chaplain.

Journal of Saturday read and approved.

The following notices were given for the introduction of bills:

By Mr. Rhodes, a bill entitled "An Act for the establishment of a territorial hospital."

By Mr. Kennerly, a bill to re-enact an act entitled "An Act authorizing Robert Tingly and John Kennedy and their associates to construct a wagon road around the falls of the Missouri river."

By Mr. Gallaher, an act to re-enact an act entitled "An Act authorizing Charles Francisco and David Abbott to construct and maintain a ferry on Sun river, approved Dec. 14, 1866."

By Mr. Anderson, an act to amend an act entitled "An Act securing liens to mechanics and others, approved December 30, 1864."

Mr. Anderson made the following report:

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred H. B. No. 17, being "An Act concerning the registration of births and deaths," herewith report the same back to the House, and recommend its passage.

Report received.

Mr. Weston introduced H. B. No. 18, "An Act for the relief of Ed. Lovelock and W. K. Roberts. Read first and second time, and referred to the Committee of Ways and Means.

H. B. No. 17, "An Act concerning the registration of births and deaths," was ordered engrossed for third reading.

Mr. Word, chairman of Select Committee, reported as follows:

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 14, being "An Act to provide for the compensation of John Gay for services rendered the Territory," beg leave to report the same back to the House, and recommend that it pass.

Your Committee, on investigation, have ascertained that near three months since, a most brutal and cold-blooded murder was committed in Gallatin county, by which the Territory was deprived of a most estimable citizen, Davidson. That at that time, Mr. Gay was, and is yet, the sheriff of said county, and at the request of the citizens generally, and in pursuance of a duty devolving upon him, but for which no compensation is provided by law, he devoted over thirty days time in riding over the country endeavoring to ferret out and arrest the murderers.

Your Committee are of the opinion that the bill provides a small compensation for the services rendered.

Report received.

H. B. No. 14, "An Act to provide compensation to John Gay."

On motion of Mr. Gallaher, the rules were suspended, the bill considered engrossed, and put upon its final passage, read third time and passed.

Ayes—Messrs. Boswell, Edwards, Gallaher, Kennerly, Patton, Weston, Word, and Mr. Speaker—8.

Nays—Messrs. Comly, Rhodes, and Tennant—3.

Absent—Messrs. Anderson and Simms.

The title was agreed to.

Mr. Word, chairman of Committee on Printing, reported as follows:

MR. SPEAKER—Your Committee on Printing, to whom was referred H. B. No. 11, being an act to amend an act entitled “An Act to incorporate the City of Virginia, approved Dec. 30, 1864,” beg leave to report the same back correctly printed, except that in the third line of section 5, the word “were” appears printed where the word “now” should be; and in the 4th line of section 8, the word “residing” appears printed where the word “vending” should be.

Report received.

Mr. Tennant, chairman of Committee on Enrollment, reported as follows:

MR. SPEAKER—Your Committee on Enrollment, to whom was referred House Bills Nos. 7 and 10, beg leave to report the same correctly enrolled.

Report received.

On motion of Mr. Word, H. B. No. 11 was referred to a Select Committee of three.

Messrs. Word, Patton, and Kennerly, were appointed.

Mr. Word, chairman of Committee on Judiciary, made the following report:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred House Bill No. 15, being “An Act requiring the clerks of district courts to give bonds,” beg leave to report the same back to the House, with the recommendation that it be referred to the Committee of the Whole, for amendment.

Report received.

On motion of Mr. Anderson, the House resolved itself into a Committee of the Whole, to consider H. B. No. 15.

House resumed. Mr. Speaker in the chair.

Mr. Tennant, chairman of the Committee on Enrollment, reported as follows:

MR. SPEAKER—Your Committee on Enrollment, beg leave to report that House Bill No. 1 was handed to His Excellency the Governor, November 16th, 1867, at 12 o'clock, m.

Report received.

The following message was received from the Council, through their Assistant Clerk, Mr. Menaugh :

That the following notices of bills were given—

By Mr. Rand, "An Act supplementary to an act concerning county treasurers."

By Mr. Corum, "An Act to amend an act relating to weights and measures."

By Mr. Corum, "An Act defining the boundary lines of Jefferson county."

By Mr. Rand, "An Act concerning jurors."

On motion of Mr. Comly, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Mr. Boswell gave notice that he would, on to-morrow or some future day, introduce "An Act authorizing the county commissioners of the several counties of Montana Territory to levy a special tax for the purpose of the erection and completion of county buildings in each county."

Mr. Anderson, chairman of the Committee of the Whole, made the following report on H. B. No. 15 :

MR. SPEAKER—The Committee of the Whole, having had under consideration House Bill No. 15, being “An Act entitled an act requiring the clerks of the district courts to give bonds,” beg leave to report the same back to the House, with the following substitute and amendments, to wit :

For section 2, substitute the following :

“The bond so executed by said clerks may be sued upon in the name of the Territory of Montana, in any court of competent jurisdiction, to the use of any person or persons aggrieved by any breach of the same.”

For section 3, substitute the following :

“SEC. 3. It shall be the duty of the several judges of the district courts of this Territory to appoint a clerk of said court in each county where a district court is held, who shall procure a seal of said court, to be paid for by the county in which said court is to be held, and shall keep his office at the county seat of the said county, together with all the books, papers and records of said court.”

Make section 3 in the original bill section 4.

And recommend that the bill as amended be printed.

Report received, and the bill ordered printed as amended.

The following message was received from the Council, through their Chief Clerk, Mr. Wade :

That Mr. Corum had introduced C. B. No. 29, “An Act to amend an act entitled an act concerning lost goods and estrays.”

And that House Bills Nos. 3 and 4 had passed the Council, with amendments.

The following communication was received from the Secretary, which was referred to the Committee of Ways and Means :

SECRETARY'S OFFICE,
VIRGINIA CITY, M. T., Nov. 18, 1867. }

To the Honorable Speaker and Members of the House of Representatives:

I beg leave to remind the honorable House of Representatives, that there are some ten or twelve boxes of books for the territorial library of Montana, now in the Interior Department at Washington, ready for shipment. I made an estimate of the cost of freight, and applied to the comptroller of the treasury for permission to pay the same out of government funds. In answer to my application, I was verbally informed by that officer, that the expense of transportation could not be incurred by the United States. My estimates for the cost of express and freight amounted to nearly six hundred dollars.

The books for the Territory are constantly accumulating, and would make a valuable addition to our library.

Thinking you might be unaware of the usage of the government in such cases, I have taken the liberty, in this official manner, to call your attention to the subject.

I have the honor and am very respectfully,

Your obedient servant,

JAMES TUFTS,

Secretary of Montana.

Also, the following:

SECRETARY'S OFFICE,
VIRGINIA CITY, M. T., Nov. 18, 1867. }

To the Honorable Speaker and Members of the House of Representatives:

In reply to your resolution requesting me to furnish certain newspapers to each member of the House, I beg leave to submit, in answer, my response to a like resolution from the honorable Council.

The general instructions of the Treasury Department fail to specify newspapers as an item of incidental expenses, and as no vouchers for Legislative expenses in the Territory of Montana have yet been audited, I am without a precedent to guide me in answer to your resolve.

My personal recollections of the custom in other Territories, persuade me that the number asked for, in view of the high price charged for newspapers in our Territory, would exceed an amount which the department would be willing to allow. I have, therefore, determined to allow each member such papers as he may select, to the amount of twelve dollars for the session.

Assuring you of my earnest desire to serve you to the full extent my instructions will permit,

I have the honor, and am your
Ob't servant,

JAMES TUFTS,

Secretary of Montana.

On motion of Mr. Comly, the House adjourned.

SIXTEENTH DAY.

NOVEMBER 19, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Mr. Simms absent.

Prayer by the chaplain.

Journal of yesterday read and approved.

The Committee on Engrossment reported as follows:

MR. SPEAKER—The Committee on Engrossment, to whom was referred H. B. No. 17, beg leave to report the same correctly engrossed.

Report received.

Mr. Tennant reported as follows:

MR. SPEAKER—Your Committee on Enrollment beg leave to report that H. B. Nos. 7 and 10 were duly handed to the Governor for his action, on November 18th, 1867, at 10 o'clock, A. M.

Mr. Boswell introduced H. B. No. 19, “An Act authorizing the county commissioners of the several counties of Montana Territory to provide county buildings for their said counties.”

Read first and second time, rules suspended, and referred to a Select Committee of three, consisting of Messrs. Word, Weston, and Boswell.

Mr. Gallaher introduced H. B. No. 20, “An Act establishing the territorial cabinet.”

Read first and second time, rules suspended, and referred to the Committee on Mines and Minerals.

The following message was received from the Governor, through his private secretary, Mr. Cummings:

MR. SPEAKER—I am directed by the Governor to inform the House, that he did, on the 16th instant, approve House Bill No. 1, entitled "An Act creating certain offices in the Territory of Montana, declaring to whom resignations shall be made, when the offices shall be deemed vacant, and the manner of filling vacancies."

Mr. Word, of Madison, introduced the following resolution:

Resolved, That the members of the Council be invited to meet the members of the House, in the Hall, at 2½ o'clock, P. M., to-day, in joint session, for the purpose of electing a Territorial Auditor, Treasurer, and Superintendent of Public Instruction.

On motion of Mr. Comly, the resolution was adopted.

Mr. Word presented the petition of J. J. Roe & Co., asking for an appropriation for freight on books.

Read, and referred to the Committee of Ways and Means.

H. B. No. 3 was, on motion of Mr. Word, recommitted to the Committee on Judiciary.

H. B. No. 4 was, on motion, recommitted to the Committee on Judiciary.

The following communication was received from the Council, through their Assistant Clerk, Mr. Menaugh:

That the following notices of bills were given:

By Mr. Rand, "An Act supplementary to an act concerning county treasurers."

By Mr. Corum, "An Act concerning weights and measures."

By Mr. Rand, "An Act concerning jurors."

By Mr. Orr, "An Act to amend an act entitled an act to provide increased compensation to the officers of this Territory, approved January 24th, 1865."

H. B. No. 17, "An Act to provide for the registration of births and deaths," was read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—none.

Title agreed to.

Mr. Word, chairman of Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 3, being "An Act providing for the payment of jurors, witnesses and officers in Montana Territory," with the Council amendment, beg leave to report the same back to the House, with the recommendation that the Council amendment be concurred in.

Report received.

The bill was then read, and the amendment of the Council was concurred in.

On motion of Mr. Word, the House agreed to go into Committee of the Whole, to consider the Governor's Message, at 10 o'clock, A. M., to-morrow.

The following communication was received from the Council, through their Chief Clerk, Mr. Wade:

That C. B. No. 4 had passed the Council. And

That the Council would meet the House at 2½ o'clock, P. M., to go into joint convention to elect territorial officers.

On motion, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

C. B. No. 4, "An Act regulating attachments in civil cases," was read first and second time, and referred to Committee on Judiciary.

Mr. Patton gave notice, that he would on to-morrow introduce "A Bill to dissolve the bonds of matrimony existing between Jas. Dorrity and Amanda Dorrity."

Mr. Edwards introduced the following resolution:

Resolved, That no bill shall hereafter be printed unless ordered by the House.

Mr. Comly moved to amend as follows: "and that rule 53 of House rules is hereby repealed."

The amendment to the resolution was adopted, and the resolution as amended, was adopted.

The two Houses then went into joint convention.

The House resumed.

On motion of Mr. Word, the House adjourned.

SEVENTEENTH DAY.

NOVEMBER 20, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the Chaplain, Rev. Bishop Tuttle.

Journal of yesterday read and approved.

A petition was presented to the House by the Speaker (Mr. Stewart), from the citizens of Edgerton county, protesting against a geological survey.

Mr. Gallaher gave notice of the introduction of a bill for "An Act to dissolve the bonds of matrimony heretofore existing between Edward McBroom and Margaret McBroom."

Mr. Patton introduced H. B. No. 21, "An Act to dissolve the bonds of matrimony heretofore existing between James B. Dority and Amanda Dority."

Bill read first and second time, and referred to Committee of the Whole.

Mr. Kennerly introduced H. B. No. 22, "An Act to re-enact an act entitled an act to authorize Robert Tingly, John Kennedy, and their associates, to construct a wagon road around the falls of the Missouri river."

Read first and second time, and referred to Committee on Incorporations.

On motion of Mr. Word, H. B. No. 21 was taken from the Committee of the Whole, and, on motion of Mr. Patton, the bill was referred to a Select Committee of three.

Messrs. Patton, Boswell and Anderson were appointed such Committee.

Mr. Tennant, chairman of the Committee on Enrollment, reported H. B. No. 3 correctly enrolled.

Mr. Edwards introduced the following resolution, which was adopted :

Resolved, That the Sergeant-at-Arms be requested to order four copies of the *Post*, four copies of the Montana *Democrat*, also request the Secretary to order four copies of the *Rocky Mountain Gazette*, for each member of the House of Representatives.

The House then went into Committee of the Whole, to consider the Governor's message.

The House resumed. Mr. Speaker in the chair.

The following communication was received from the Council, through Mr. Menaugh, their Assistant Clerk :

That the following notices were given in the Council :

By Mr. Rand, "An Act to authorize the county commissioners of Deer Lodge county to raise a special tax for the purpose of constructing county buildings."

By Mr. Orr, "An Act to provide for a special election in Gallatin county."

By Mr. Rand, "An Act to amend an act entitled an act concerning limitations, approved February 9, 1865."

Mr. Corum introduced C. B. No. 34, entitled "An Act to define the boundary lines of Jefferson county."

Mr. Cullen introduced C. B. No. 35, "An Act to legalize the proceedings of the district courts of Montana Territory."

By Mr. Rand, C. J. R. No. 2, "Requesting the Governor to furnish information showing amount of vouchers issued for expenses arising out of equipment and supply of the First Regiment Montana Volunteers, during the recent Indian troubles."

That H. B. No. 17, "An Act concerning registration of births and deaths," was read first and second time and referred to Committee of the Whole, and made special order of the day for the second Monday in December.

The following communication was received from the Governor, through his private secretary, Mr. Cummings :

MR. SPEAKER—I am directed by the Governor to inform the House that he approved, on the 18th inst., House Bill No. 10, entitled "An Act to provide for marks instead of signatures."

Mr. Word, chairman of the Select Committee, to whom was referred H. B. No. 19, reported as follows, to wit :

MR. SPEAKER—Your Select Committee, to whom was referred House Bill No. 19, being "An Act authorizing the county commissioners of the several counties of Montana Territory to provide county buildings for their several counties," beg leave to report the same back to the House, and recommend that the same pass, with the following substitute for section 2 :

"SECTION 2. The boards of county commissioners of the several counties shall have power, for the purpose of building, completing or purchasing any such public building or real estate, to levy and collect all necessary taxes upon the taxable property of the inhabitants of their several counties, or they may issue county warrants for the same, or they may make and issue county bonds in such amounts as may be necessary for such purposes. Such warrants, or bonds, as the case may be, not to draw more than ten per centum per annum. *Provided*, that where the county commissioners of any county shall issue warrants or bonds for the purposes herein mentioned, they shall immediately thereafter levy and collect a tax sufficient in amount to pay said warrants, or bonds, and all interest that may accrue thereon."

Report received.

H. B. No. 19 was adopted as amended, and ordered engrossed for a third reading.

On motion of Mr. Word, the following resolution was adopted :

Resolved, That no act to dissolve the bonds of matrimony existing between any married parties shall be considered by this House, unless the same be accompanied by satisfactory proofs, under oath, of the existence of a meritorious case on the part of the applicant.

On motion of Mr. Anderson, the House took a recess until 2 P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

The following communication, in writing, was received from His Excellency the Governor, through Mr. H. Cummings, his private secretary :

EXECUTIVE OFFICE, VIRGINIA CITY, M. T., }
November 20, 1867. }

Gentlemen of the House of Representatives:

I return to the House, in which it originated, Bill No. 7, entitled "An Act to amend an act entitled an act for the location of the seat of government in and for the Territory of Montana," with my objections to its becoming a law at this time.

I am well aware of the interest heretofore manifested by the people on this subject, and their desire to have the capital fixed at some suitable and accessible point. Yet the truth is apparent that the conflicting opinion as to where that point is, renders it

certain that the will of a majority cannot be heard at the next general election in a satisfactory manner.

Madison county wants it, and thinks this city is the place; Gallatin wants it, and believes Gallatin City should be the point; Deer Lodge desires it, and urges her claims for its location; Edgerton wants it, and presents her position and surroundings as the most suitable and central point.

It is true the bill under consideration fixes but two points to be voted for, and while the electors will cast their votes either for Helena or Virginia City, it does not follow that some other point is not preferable.

The object of the bill is to remove the capital from Virginia City, because it is said to be on one side and near the corner of the Territory. These are good reasons for its not remaining here permanently.

The object of the people will be, when it is removed, to locate it at some point to remain, and where the centrality, geographically, and the population of the country, together with its productions, will be permanent and increasing. Where that place is, is not yet determined. It may be in a few years—it may not be for some time to come.

Another important reason why action should not be taken at this time, is the uncertainty of county lines, and the impossibility now of determining them. The Surveyor General, in his report, dated October 5th, 1867, uses the following language: "I beg leave to make some suggestions as to the boundaries of the different counties. Many of their limits are marked only by imaginary lines—latitude and longitude—and no knowledge seems to have been had where these exact places would be. It has been with great difficulty that the law and maps could be made to conform. Such were the mistakes made in their location, that a strict adherence to the law would place Virginia City in Beaver Head county, and Silver City in Deer Lodge, while Helena would be situated in Jefferson."

Now, if this be true, Edgerton does not get the capital, but it will go to Jefferson, which would subvert the will of the people in the event they voted for Helena, and that county. So would Madison be disappointed, and Beaver Head, who has not asked it,

have the capital within her boundary, while if a majority voted for, Virginia City would be thwarted in their wishes. It seems to me to be sound policy to delay this matter for a year or two at least, and until the lines and boundaries are surely and permanently fixed for each county by natural and evident marks and lines. The population, condition and position of each county will then be known. The legislature can act with propriety, and the people vote understandingly.

If the Surveyor General's report is correct, and it certainly must be, there will be but little of Edgerton county left, if the lines of boundary should by law conform to that survey. This is a question, however, for the legislature to determine, and should take precedence of all other subjects connected with county or territorial legislation.

Madison would lose a large portion of her territory, and the capital, if it was voted to her.

If, in the survey and determination of county lines, Helena should be found to be located in Jefferson county, after the capital is moved there, would it be right to tax the people of Edgerton county to assist in public buildings which would go to ornament and improve Jefferson, who paid none or very little?

In fact, this subject of county lines leaves us in so much uncertainty and confusion, that it appears wrong and unjust to settle, as the bill declares, the capital permanently in the city of Helena or Virginia. It is now but temporarily located.

The Organic Act, after prescribing how and where the first session of the legislature shall meet, and also pointing out the way for the seat of government to be changed from that fixed by the Governor, provides "That the seat of government fixed by the Governor and Legislative Assembly, shall not be at any time changed except by an act of the said Assembly, duly passed, and which shall be approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question."

The language of this act does not give to the legislature the power to permanently locate the capital. The question is open for each and every succeeding assembly; but the bill before us, in section 2, declares "that the question of *permanently* locating

the seat of government in and for the Territory," thereby making it compulsory with the people either to make Helena or Virginia City the permanent seat of government, whether or not it be their wishes to locate it elsewhere.

It may be said that if the people do not want it at Helena, they will vote to keep it at Virginia City. Well, suppose they do, the act makes it a permanent location, and it is my opinion, and I presume the opinion of all, that this *will not* be the seat of government but a year or two longer, at furthest.

Again, that the Northern Pacific Railroad will be built within a very few years, there is no sort of doubt. What will be the exact line of that road is unknown, but that it will traverse some of our beautiful valleys, is certain. On that road must spring up large commercial cities and places of great business; it may go hard by Helena; it may cross not far from Virginia; it may miss them both a great distance.

Is it not, or ought it not, to be the wishes of all to have the seat of government near or on this route of the railroad leading from the Atlantic to the Pacific? If, when these important measures are sufficiently developed, the question is agitated, I doubt not the people will select the best spot, and it may be Helena, or it may be Virginia.

There is another important question to be considered just here—it is that of changing the boundary lines of the Territory. Congress agitated the question last winter, and doubtless will take the matter up this winter. It is proposed to cut off the eastern portion of the Territory, reaching up west as far as longitude one hundred and eight, for a permanent Indian reservation, and extending our line west to one hundred and seventeen longitude; taking in all of that Salmon river country now lying in Idaho. If this should be done, and it is not at all uncertain, the capital, if it seeks a central location, would not be fixed either at Virginia or Helena, but more further westward.

The vote of the various counties is yet uncertain. It is variable and altogether uncertain—population and residence is not permanently fixed. A county weak to-day, may be very strong next year; a locality populated with five or ten thousand people to-day, may be almost deserted a year hence. Population nor residence can be permanent until the agricultural and quartz lands are developed and

made valuable. We hope this will take place within a very short time. Then, would it not be well to suspend so important a matter as fixing the seat of government until these questions are settled, so that when money is expended for public buildings, it will not be lost, or improperly expended?

With the foregoing, and other reasons I might give, I return, gentlemen, the bill for your further consideration.

GREEN CLAY SMITH.

The Governor's communication was order to be spread upon the journal.

On motion of Mr. Word, the House adjourned.

EIGHTEENTH DAY.

NOVEMBER 21, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the chaplain.

Journal of yesterday read and approved.

The following message was received from the Council, through their Assistant Clerk, Mr. Menaugh :

That H. B. No. 5 had passed the Council, with amendments.

That Mr. Rand had introduced C. B. No. 36, "An Act creating a board of special commissioners in Deer Lodge county."

That C. B. No. 3, "An Act to provide for the funding of the debt of Montana Territory," had passed the Council.

On motion of Mr. Boswell, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Comly, Edwards, Gallaher, and Simms.

The following communication was received from the Governor, through his private secretary, Mr. Cummings:

MR. SPEAKER—I am directed by the Governor to inform the House, that he did, on the 20th instant, approve and sign House Bill No. 3, entitled “An Act providing for the payment of jurors, witnesses and officers in Montana Territory.”

On motion of Mr. Comly, H. B. No. 7, “An Act to amend an act locating the seat of government of Montana Territory,” was reconsidered.

On motion of Mr. Comly, H. B. No. 7 was passed by the following two-thirds vote, notwithstanding the Governor’s objections:

Ayes—Messrs. Anderson, Boswell, Comly, Kennerly, Rhodes, Tenant, Weston, and Mr. Speaker—8.

Nays—Messrs. Edwards, Gallaher, Patton, and Word—4.

Absent—Mr. Simms.

The following message was received from the Council, through their Assistant Clerk, Mr. Menaugh:

That Mr. Orr introduced C. B. No. 37, “An Act to authorize the people of Gallatin county to locate the county seat of said county.”

Also, that Mr. Rand gave notice of the introduction of “A Bill to authorize the county commissioners of Missoula county to raise a special tax for the purpose of constructing bridges over the Hellgate and Bitterroot rivers.”

Mr. Word, chairman of the Committee on Printing, reported as follows:

MR. SPEAKER—Your Committee on Printing, to whom was referred House Bill No. 15, being “An Act requiring the clerks of district courts to give bonds,” beg leave to report the same back to the House correctly printed.

Report received.

Mr. Comly reported H. B. No. 19 correctly engrossed.

Mr. Gallaher, previous notice being given, introduced H. B. No. 23, "An Act to dissolve the bonds of matrimony heretofore existing between Edward McBroom and Margaret McBroom."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Anderson, previous notice being given, introduced H. B. No. 24, "An Act to amend an act securing liens to mechanics and others, approved December 30, 1864."

Read first and second time, and referred to the Committee on Agriculture.

Mr. Weston reported as follows, upon C. B. No. 25:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 25, entitled "An Act to divorce Robert K. Findlay and Elizabeth Findlay," having had the same under consideration, most respectfully report the same back to the House, and recommend that it do not pass.

On motion of Mr. Comly, the report of the Committee was received and concurred in.

On motion of Mr. Comly, C. B. No. 25 was laid on the table.

On motion of Mr. Comly, the House adjourned.

NINETEENTH DAY.

NOVEMBER 22, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Word.

Prayer by the chaplain.

Journal of yesterday read and approved, after inserting the name of Mr. Weston in the affirmative in the vote upon H. B. No. 7.

A petition was presented from the citizens of Jefferson county, asking that the county seat of said county be changed from Prickly Pear to Springville.

Read, and referred to the Committee on Towns and Counties.

Mr. Weston introduced H. B. No. 25, "An Act to amend an act concerning license."

Read first and second time, and ordered printed.

Mr. Word introduced H. B. No. 26, "An Act to provide for a territorial library."

Read first and second time, and referred to Committee on Territorial Affairs.

C. B. No. 3, "An Act to provide for the funding of the debt of Montana Territory."

Read first and second time, and referred to a Select Committee of three.

Messrs. Boswell, Word, and Anderson, were appointed said committee.

Mr. Word, chairman Judiciary Committee, reported as follows:

MR. SPEAKER—Your Judiciary Committee, to whom was referred House Bill No. 4, being “An Act supplementary to an act in relation to notaries public,” together with the Council amendments thereto, beg leave to report the same back, with the recommendation that the House concur in said amendments.

Report received, and the Council amendments were concurred in.

H. B. No. 15 was taken up and ordered engrossed, with the amendments, for a third reading.

H. B. No. 19, “An Act authorizing the county commissioners of the several counties of Montana Territory to provide county buildings for their respective counties,” was put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Simms and Tennant.

The title was amended by striking out the word “said” in the last line, before the word “counties,” and the word “respective” inserted.

The following message was received from the Council, through their Chief Clerk, Mr. Wade:

That Mr. Rand introduced C. B. No. 38, “An Act to authorize the county commissioners of Missoula county to raise a special tax for bridge purposes.”

That H. B. No. 7, “An Act entitled an act to amend an act for the location of the seat of government of Montana Territory,” was made the special order for Saturday, Nov. 30, 1867.

That C. B. No. 34, “An Act to establish the boundary lines of Jefferson county,” had passed the Council.

That C. B. No. 26, "An Act relative to attorneys and counselors-at-law," had passed the Council.

That C. B. No. 21, "An Act defining the duties of Territorial Auditor and Territorial Treasurer of the Territory of Montana," had passed the Council.

That H. B. No. 14, "An Act to compensate John Gay for services rendered the Territory," had passed the Council.

Mr. Gallaher, chairman of the Committee on Agriculture and Manufactures, reported as follows:

MR. SPEAKER—Your Committee on Agriculture, to whom was referred H. B. No. 24, respectfully beg leave to report that they have had the same under consideration, and report it back to the House, with a recommendation that it be considered in Committee of the Whole.

Report received.

On motion of Mr. Anderson, the bill was referred to the Committee of the Whole, and made the special order for $2\frac{1}{2}$ o'clock this P. M.

On motion of Mr. Anderson, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—Mr. Anderson absent.

C. B. No. 21, "An Act defining the duties of Territorial Auditor and Territorial Treasurer of the Territory of Montana."

Read first and second time, and referred to a Select Committee of three.

Mr. Speaker appointed Messrs. Boswell, Word, and Comly.

The following message was received from the Council, through their Chief Clerk, Mr. Wade:

That Mr. Orr gave notice of the introduction of a joint memorial to the Congress of the United States to pass "An Act to authorize the inhabitants of Montana Territory to call a convention to form a State Constitution preparatory to her admission into the Union."

That H. B. No. 13, "An Act to re-enact an act to authorize C. D. Loutsenheizer, A. J. Burr and C. C. Stubbs to establish a ferry," had passed the Council.

That C. B. No. 36, "An Act creating a board of special commissioners to build county buildings in Deer Lodge county," had passed the Council.

That C. B. No. 38, "An Act to authorize the county commissioners of Missoula county, to raise a special tax for bridge purposes," had passed the Council.

The hour having arrived for which House Bill No. 24 was made the special order, to be considered in Committee of the Whole, the House resolved itself into a Committee of the Whole, with Mr. Anderson in the chair.

The House resumed. Mr. Speaker in the chair.

C. B. No. 36, "An Act to create a board of special commissioners to erect county buildings in Deer Lodge county."

Read first and second time, and referred to a Select Committee of three, consisting of Messrs. Boswell, Edwards, and Rhodes.

C. B. No. 38, "An Act to authorize the county commissioners of Missoula county to raise a special tax for bridge purposes."

Read first and second time, and referred to Committee of Ways and Means.

C. B. No. 34, "An Act defining the boundary lines of Jefferson county."

Read first and second time, and referred to a Select Committee of three, consisting of Messrs. Gallaher, Rhodes, and Kennerly.

C. B. No. 26, "An Act relating to attorneys and counselors-at-law."

Read first and second time, and referred to Committee on Judiciary.

Mr. Anderson, chairman of the Committee of the Whole, reported :

MR. SPEAKER—The Committee of the Whole, having had under consideration H. B. No 24, being "An Act to amend an act entitled an act securing liens to mechanics and others," beg leave to report the same back to the House, with the recommendation that it be committed to the Judiciary Committee, to report amendments thereto.

Report received and concurred in.

Mr. Weston, chairman of Committee of the Whole, to whom was referred the Governor's message, reported as follows:

MR. SPEAKER—Your Committee of the Whole, to whom was referred the Governor's message, most respectfully report as follows:

That they have had the same under consideration, and report it back to the House, with the recommendation that all that portion of said message which refers to our Indian difficulties, and the operations of our militia in connection therewith, be referred to the Military Committee.

That all that portion of the same, referring to the Auditor's and

Treasurer's reports, with the several reports, be referred to the Committee on Finance.

That all that portion of said message which refers to the currency of the country, be referred to the Committee on Federal Relations.

That all that portion relating to schools and education, with the report of the Superintendent of Public Instruction, be referred to the Committee on Education.

That portion of the same which refers to the adoption of a civil practice act for the Territory, be referred to the Judiciary Committee.

That portion referring to the building of a penitentiary, to the Committee on Territorial Affairs.

That portion relative to the annulment of our laws, to the Committee on Federal Relations.

That portion relative to county boundaries, be referred to the Committee on Towns and Counties.

And that portion in relation to the reports of Professors Swallow and Eaton, be referred, with the said reports, to the Committee on Mines and Minerals.

Mr. Edwards, chairman of the Committee on Mines and Minerals, made the following report:

MR. SPEAKER—Your Committee on Mines and Minerals, to whom H. B. No. 20 was referred, respectfully report the same back to the House, and recommend that it be referred to the Committee of the Whole.

Report received.

On motion of Mr. Edwards, the report was concurred in and the bill made the special order for half-past two o'clock, P. M., tomorrow.

Mr. Comly, chairman of the Committee on Engrossment, reported H. B. No. 15 correctly engrossed.

H. B. No. 15, "An Act requiring the clerks of the district

courts to give bonds, was, on motion, put upon its final passage. Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Simms and Tennant.

The title was agreed to.

On motion of Mr. Boswell, the House adjourned.

TWENTIETH DAY.

NOVEMBER 23, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Simms and Tennant.

Prayer by the chaplain.

Journal of yesterday read and approved.

Mr. Tennant, chairman of the Enrolling Committee, reported H. B. Nos. 4, 5, 13, and 14, correctly enrolled.

Mr. Kennerly gave the following notice:

MR. SPEAKER—I hereby give notice that I will, on to-morrow or some future day of the session, introduce a joint memorial to the Congress of the United States, “Asking for appropriations to make treaties with certain tribes of Indians, and for other purposes.”

The following communication was received from the Council, through their Chief Clerk, Mr. Wade:

MR. SPEAKER—I am directed by the Council to inform your honorable body, that—

C. B. No. 32, entitled “An Act to amend an act concerning weights and measures, approved January 24, 1865,” has passed the Council.

That C. B. No. 29, entitled “An Act to amend an act entitled an act concerning lost goods or estrays,” has been indefinitely postponed. And

That C. B. No. 37 has passed the Council.

Mr. Boswell, chairman of Select Committee, to whom was referred Council Bill No. 3, reported as follows:

MR. SPEAKER—Your Select Committee of three, to whom was referred Council Bill No. 3, being “An Act to provide for funding the debt of Montana Territory,” beg leave to report that they have had the same under consideration, and recommend that in section 10 the word “fifteen” be stricken out, and the word “five” be inserted in lieu thereof; and also, in same section, the word “sixty” be stricken out, and the word “thirty” inserted in lieu thereof; and your Committee recommend that the bill pass, with the above amendments.

Report received.

C. B. No. 32, “An Act to amend an act concerning weights and measures,” was read first and second time, and referred to the Committee on Agriculture and Manufactures.

On motion of Mr. Comly, the House resolved itself into a Committee of the Whole, to consider Council Bill No. 3.

The House resumed. Mr. Speaker in the chair.

Mr. Comly, as chairman of Committee of the Whole, reported as follows, upon C. B. No. 3:

MR. SPEAKER—The Committee of the Whole, to whom was referred Council Bill No. 3, recommend that the amendments reported by the Select Committee be adopted, and that section 2 be amended by striking out the words “after two years,” after the word “Territory,” and before the word “two,” and that the bill, with the amendments, and communication from the Auditor, be referred back to the Select Committee from which it was taken.

All of which is respectfully submitted.

Report received and concurred in.

A petition was presented from the citizens of Gallatin county, asking for a special election to change the county seat.

Referred to a Select Committee of three, consisting of Messrs. Gallaher, Word, and Weston.

C. B. No. 37, "An Act to authorize the people of Gallatin county to locate the county seat of Gallatin county."

Read first and second time, and referred to a Select Committee of three, consisting of Messrs. Word, Gallaher, and Weston.

On motion of Mr. Boswell, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Word and Simms.

Mr. Kennerly, chairman of the Committee on Towns and Counties, reported as follows:

MR. SPEAKER—Your Committee on Towns and Counties, to whom was referred a petition from citizens of Jefferson county, asking for the permanent location of the county seat of said county, have had the same under consideration, and respectfully report the same back, and recommend that the petition be laid on the table for future consideration.

Report received.

Mr. Tennant, chairman of the Enrollment Committee, reported that he had handed H. B. Nos. 4, 5, 13, and 14, to the Governor for his approval, at 11 o'clock, P. M., November 22, 1867.

C. B. No. 21, "An Act defining the duties of the Territorial Auditor and Territorial Treasurer of Montana Territory."

Read first and second time, and referred to a Select Committee of three; reported back, and referred to the Committee of the Whole, and made the special order for 2½ o'clock.

C. B. No. 33, "An Act supplementary to an act concerning county treasurers."

Read first and second time, and referred to a Select Committee of three, consisting of Messrs. Patton, Gallaher, and Word.

The following communication was received from the Governor, through his private secretary, Mr. Cummings:

MR. SPEAKER—I am instructed by the Governor to inform the House, that he has this day signed—

House Bill No. 4, entitled “An Act supplementary to an act in relation to notaries public.”

Also, House Bill No. 5, entitled “An Act to provide for storage and commission merchants to dispose of goods, wares, merchandise and machinery for the storage of the same, or freight money advanced thereon.”

Also, House Bill No. 14, entitled “A Bill for an act to provide for the compensation of John Gay for services rendered the Territory.”

The following message was received from the Council, through their Chief Clerk, Mr. Wade:

That C. B. No. 35, “An Act to legalize the proceedings of the district courts of Montana Territory,” had been lost.

That C. B. No. 14, “An Act to invest certain religious, charitable and educational institutions with certain powers of bodies corporate,” had been lost.

That C. B. No. 22, “An Act creating the office of master in chancery, and defining his duties,” had been indefinitely postponed.

On motion of Mr. Edwards, the House resolved itself into Committee of the Whole, to consider H. B. No. 20.

House resumed. Mr. Speaker in the chair.

Mr. Edwards, chairman of the Committee of the Whole, to whom was referred H. B. No. 20, reported as follows:

MR. SPEAKER—Your Committee of the Whole on House Bill No. 20, beg leave to report the same back to the House, with progress.

Report received.

On motion of Mr. Anderson, H. B. No. 20, with the report of the Committee of the Whole, was laid on the table.

On motion of Mr. Comly, the House resolved itself into Committee of the Whole, to consider C. B. No. 21.

The House resumed. Mr. Speaker in the chair.

Mr. Comly, chairman of Committee of the Whole, was granted until Monday morning to make report upon C. B. No. 21.

On motion of Mr. Boswell, the House adjourned to 10 o'clock, a. m., on Monday.

TWENTY-SECOND DAY.

NOVEMBER 25, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

[Prayer by the Chaplain. .

Journal of Saturday read and approved.

Mr. Gallaher, chairman of Select Committee, reported as follows:

MR. SPEAKER—Your Special Committee, to whom was referred C. B. No. 37, beg leave to report the same back to the House, with a recommendation that it be passed, with the following amendments:

Amend section 1, by striking out the words “on the 25th day of December, 1867,” and inserting the words “at the regular general election in the year 1868.”

Also, amend section 1 by striking out “the highest number of legal votes,” and inserting the words “a majority of all the legal votes cast in the county.”

Report received.

Mr. Anderson, chairman of Committee on Territorial Affairs, reported as follows:

MR. SPEAKER—The Committee on Territorial Affairs beg leave to report that they have had under consideration House Bill No. 26, being “An Act to provide for a territorial library

for the Territory of Montana," report the same back to the House, and recommend that the bill be indefinitely postponed.

Report received.

Mr. Comly reported as follows, as chairman of Committee of the Whole:

MR. SPEAKER—The Committee of the Whole, to whom was referred Council Bill No. 21, beg leave to report that they have had the same under consideration, and recommend that the bill pass, with the amendment as reported by the Special Committee, to whom the bill was previously committed by the House.

Report received.

Mr. Comly gave the following notice:

MR. SPEAKER—I hereby give notice that on to-morrow or some future day, I will introduce a bill entitled "An Act to amend section 147 of an act concerning crimes and punishments," passed by the first legislature of Montana Territory.

Mr. Word moved that the report of the Select Committee on C. B. No. 37 be laid on the table.

Motion lost.

The following communication was received from the Council, through their Chief Clerk, Mr. Wade:

MR. SPEAKER—I am directed by the Council to inform your honorable body, that Mr. Davis gave notice of the introduction of a bill for "An Act concerning foreign corporations."

Also, that Mr. Rand introduced C. B. No. 39, entitled "An Act concerning limitations."

Also, that C. B. No. 31, entitled "An Act concerning jurors," has passed the Council.

On motion of Mr. Gallaher, the amendments to C. B. No. 37 were adopted.

On motion of Mr. Word, C. B. No. 37, with amendments, were referred to a Select Committee of three, consisting of Messrs Word, Anderson, and Gallaher.

On motion, the amendment made to C. B. No. 21, by the Committee of the Whole, was adopted.

Mr. Word moved to lay C. B. No. 21 on the table.

Motion lost.

Mr. Word moved to amend as follows :

Strike out all after the word "payment," in the second line of section 14, and the word "giving," in the third line of same section.

Mr. Comly moved to amend the amendment as follows :

Strike out the first eleven lines of section 14, and substitute the words "the treasurer" for the word "he," at the beginning of the 12th line.

Motion lost.

The amendment of Mr. Word was then put and lost.

C. B. No. 21 was then read the third time, and passed by the following vote :

Ayes—Messrs. Anderson, Boswell, Comly, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—10.

Nays—Messrs. Edwards and Word—2.

Absent—Mr. Simms.

The title was then agreed to.

Mr. Gallaher made the following report from the Committee on Agriculture and Manufactures :

MR. SPEAKER—Your Committee, to whom was referred C. B. No. 10, beg leave to report the bill back to the House, with a recommendation that the same be considered in Committee of the Whole.

Report received and concurred in, and, on motion, the bill was referred to the Committee of the Whole, and made the special order for 2½ o'clock, P. M.

On motion, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

On motion of Mr. Comly, H. B. No. 26 was recommended to a Select Committee, consisting of Messrs. Comly, Word and Weston.

The following communication was received from His Excellency the Governor, through his private secretary, Mr. H. Cummings:

MR. SPEAKER—I am directed by the Governor to inform the House that he has this day signed H. B. No. 13, entitled "An Act to re-enact an act to authorize C. D. Loutsenheizer, A. J. Burr and C. C. Stubbs to establish a ferry."

The following communication was also received from His Excellency the Governor, in writing :

EXECUTIVE OFFICE, MONTANA TERRITORY, }
VIRGINIA CITY, Nov. 25, 1867. }

GENTLEMEN—I have been informed that a bill has passed the Council, entitled "An Act to provide for the funding of the debt of Montana Territory." Such a law was passed, and approved December 14, 1866. By section 4 of that bill, it was made the duty of the Governor to have the bonds and coupons printed and ready for issue by the first of June, 1867.

The duty was performed, and four hundred dollars, of the thousand appropriated, is in my hands. The work has been done at the Treasury Department, in Washington, and the whole debt, nearly amounting to one thousand dollars, due. I transmit, herewith, copies of the bonds for your inspection, and can but renew my request that the law be re-enacted, at least in its general provisions, and so as to put in use the bonds printed, and now ready to be forwarded from Washington.

It is proper for me to state, had I known when the bill was before the Council, and prior to its passage, I should have sent the bonds to that House.

GREEN CLAY SMITH.

Mr. Tennant, by consent, introduced H. B. No. 27, "An Act to provide for organizing and disciplining the militia of the Territory of Montana."

Read first and second time, and referred to the Committee on Printing.

The House then resolved itself into Committee of the Whole, to consider H. B. No. 10. Mr. Weston in the chair.

House resumed. Mr. Speaker in the chair.

Mr. Weston, chairman of the Committee of the Whole, reported as follows, upon C. B. No. 10:

MR. SPEAKER—Your Committee of the Whole, to whom was referred Council Bill No. 10, being "An Act declaring what shall be a lawful fence," beg leave to report the same back to the House, with the recommendation that it be referred to the Committee on Territorial Affairs for perfection.

Report received, and the report was concurred in, and the bill referred to the Committee on Territorial Affairs.

The following message was received from the Council, through Mr. Thomas B. Wade, their Chief Clerk :

MR. SPEAKER—I am directed by the Council to inform your honorable body that Mr. Davis introduced C. B. No. 40, entitled "An Act concerning foreign corporations."

Also, C. B. No. 41, entitled "An act in relation to continuances in civil and criminal causes."

That C. B. No. 39, entitled "An Act to amend an act concerning limitations," has been indefinitely postponed.

Also, that the accompanying resolution has passed the Council:

Resolved, That the President of the Council appoint two of its members, to confer with a Committee of three from the House of the Legislative Assembly, whose duty it shall be to inquire into the following facts, if they exist:

First—Upon what ground and by what authority has an arsenal been contracted to be built.

Second—Whether by the general government, or any commander of any military division.

Third—Whether the money expended, or proposed to be expended, is upon property belonging to the Territory or the Federal Government, and all such other facts touching the late military expedition in this Territory, wherein the Territory is involved, as they shall deem expedient in the premises, and report the same to their respective Houses.

C. B. No. 31, "An Act concerning jurors," was read first and second time, and referred to the Committee on Judiciary.

Mr. Comly introduced the following resolution, which was adopted:

Resolved, That a Committee of three be appointed, to confer with a Committee of two from the Council, to inquire into matters concerning the late Indian expedition, and that the said Committee report concerning the same to this House, and shall act in conjunction with the Military Committee in said inquiry.

Messrs. Comly and Word were appointed, and, on motion of Mr. Tennant, Mr. Speaker was added to the Committee.

On motion of Mr. Tennant, the House adjourned.

TWENTY-THIRD DAY.

NOVEMBER 26, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the chaplain.

Journal of yesterday read and approved.

Mr. Word, chairman of the Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Judiciary Committee, to whom was referred Council Bill No. 31, being “An Act concerning jurors,” beg leave to report the same back to the House, with the recommendation that it be considered in the Committee of the Whole.

Report received.

Mr. Comly, from the Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Committee on Judiciary, beg leave to report C. B. No. 26, “An Act relative to attorneys and counselors-at-law,” back to the House, and recommend that it be indefinitely postponed, for the reason that we have an almost similar law in the Bannack statutes, and, in the opinion of your committee, preferable to this bill.

Report received.

Mr. Weston, chairman of the Committee on Incorporations, reported as follows :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 22, “An Act to re-enact an act entitled an act to authorize Robert Tingly and John Kennedy and their associates to construct a wagon road around the falls of the Missouri river,” having had the same under consideration, most respectfully report it back to the House, and recommend that it pass without amendment.

Report received.

Also, as follows :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 16, “An Act to re-enact an act entitled an act to incorporate the great Beaver Head Wagon Road Company,” having had the same under consideration, report it back to the House, and recommend that it do pass.

Report received.

Mr. Word, chairman, reported as follows :

MR. SPEAKER—Your Select Committee, to whom was referred C. B. No. 37, being “An Act to authorize the people of Gallatin to locate the county seat of Gallatin county,” beg leave to report the same back to the House, with the amendments adopted yesterday, with the recommendation that the amendments adopted yesterday be laid upon the table, and that the bill pass the House without amendments.

Report received, and committee discharged.

Mr. Comly gave the following notice :

MR. SPEAKER—I hereby give notice that I will, as chairman of Committee on Federal Relations, on to-morrow, or some subsequent day, introduce a “Joint Memorial to Congress, asking for the establishment of a branch mint in Montana Territory.”

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

MR. SPEAKER—I am directed by the Council to inform your honorable body, that Mr. Davis, on leave, has introduced C. B. No. 42, entitled “An Act to amend an act to incorporate the city of Nevada.”

Also, that, on leave, Mr. President introduced C. B. No. 43, entitled “An Act relating to fires, and the protection of timbers and grasses.”

Mr. Comly introduced H. B. No. 28, “An Act to amend an act entitled an act concerning crimes and punishments.”

Read first and second time, and referred to the Committee on Judiciary.

Mr. Edwards introduced H. B. No. 29, “An Act relating to the discovery and possessory right of all placer mines.”

Read first and second time, and referred to the Committee on Mines and Minerals.

Mr. Rhodes introduced H. B. No. 30, “An Act regulating the fees of officers, jurors and witnesses, and repealing an act entitled an act regulating the fees of officers, jurors and witnesses, approved Feb. 9, 1865.”

Read first and second time, and ordered printed.

C. B. No. 37 was taken up, and, on motion of Mr. Anderson, the amendments were laid on the table.

The bill was then put upon its final passage, read third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Patton, Rhodes, Word, and Mr. Speaker—7.

Nays—Messrs. Boswell, Gallaher, and Weston—3.

Absent—Messrs. Kennerly, Simms, and Tennant.

The title was agreed to.

On motion of Mr. Anderson, C. B. No. 31 was referred to the Committee of the Whole, and made the special order for 3 o'clock this P. M.

C. B. No. 26, “An Act relating to attorneys and counselors-at-law,” was, on motion of Mr. Patton, indefinitely postponed.

H. B. No. 22, "An Act to re-enact an act entitled an act to authorize Robert Tingly and John Kennedy and their associates, to construct a toll road around the falls of the Missouri river," was put upon its final passage, read the third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nay—Mr. Boswell.

Absent—Messrs. Gallaher and Simms.

The title was agreed to.

On motion of Mr. Boswell, H. B. No. 16 was referred to a Select Committee of three, consisting of Messrs. Boswell, Word, and Tennant.

Mr. Word reported as follows:

MR. SPEAKER—Your Judiciary Committee, to whom was referred House Bill No. 28, being "An Act to amend an act entitled an act concerning crimes and punishments," beg leave to report the same back, with the recommendation that it pass without amendment.

Report received, and concurred in.

On motion of Mr. Word, H. B. No. 28 was considered engrossed, and put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

Title agreed to.

Mr. Word, chairman of the Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Judiciary Committee, to whom was referred House Bill No. 24, being "An Act to amend an act entitled an act securing liens to mechanics and others, approved December

30th, 1864," beg leave to report the same back to the House, with the recommendation that the same pass, with the following amendments:

Amend section 1 by striking out all between the word "same" in the tenth line, and the word "upon" in the 14th line.

Also, in same section, strike out all after the word "improvement" in the 20th line, and before the word "to" in the 24th line.

Amend section two, by striking out all between the word "situated" in the 11th line, and the word "and" in the 13th line.

Add the following section:

"SEC. 3. All acts and parts of acts conflicting herewith are hereby repealed."

Change section 3 of said bill to section 4.

Report received.

On motion of Mr. Boswell, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher, Kennerly, Patton, and Simms.

Mr. Rhodes made the following report, as chairman of the Select Committee, to whom was referred C. B. No. 34:

MR. SPEAKER—A majority of your Select Committee, to whom was referred C. B. No. 34, have had the same under consideration, and find from the geographical position of the country that the natural boundaries would be the Missouri and Jefferson rivers, and to avoid confusion arising from imaginary lines, would respectfully recommend that the bill pass without amendment.

Report received, and the committee discharged.

Mr. Tennant gave the following notice:

MR. SPEAKER—I give notice that I will, on to-morrow or some subsequent day, introduce a joint memorial memorializing Congress to make the necessary appropriations to defray the indebtedness incurred in our late Indian troubles.

C. B. No. 34, "An Act to establish the boundary lines of Jefferson county," was put upon its final passage.

Read the third time, and passed.

Ayes—Messrs. Anderson, Comly, Boswell, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms.

The title was agreed to.

Mr. Gallaher gave notice that he would, on to-morrow, at 2½ o'clock, P. M., move a reconsideration of the vote by which C. B. No. 34 was passed.

On motion of Mr. Word, the amendments offered by the Judiciary Committee to H. B. No. 24 were adopted, and the bill ordered engrossed for a third reading.

The following message was received from the Governor, in writing:

EXECUTIVE OFFICE, TERRITORY OF MONTANA, }
VIRGINIA CITY, Nov. 26, 1867. }

Gentlemen of the House of Representatives:

You will allow me to call your attention to an important matter not included in any law I can find in the Territory. It is, requiring the Auditor, Treasurer and Superintendent of Public Instruction to enter into bonds with approved security for the faithful discharge of their respective duties, to be taken and accepted before some competent person and filed in the office of the Territory before entering on their duties. I suggest this matter respectfully, that you may take immediate action to amend the law so deficient in this regard.

GREEN CLAY SMITH.

The Governor's communication was referred to the Committee on Finance.

The hour having arrived for which C. B. No. 31 was made the special order, the House resolved itself into Committee of the Whole, with Mr. Boswell in the chair.

House resumed. Mr. Speaker in the chair.

Mr. Boswell, chairman of the Committee of the Whole, upon C. B. No. 31, reported as follows:

MR. SPEAKER—The Committee of the Whole, to whom was referred C. B. No. 31, beg leave to report the same back to the House, with the recommendation that it pass without amendment.

Report received.

C. B. No. 31, "An Act concerning jurors," was put upon its final passage.

Read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms.

The title was agreed to.

Mr. Gallaher, with leave, introduced H. B. No. 31, "An Act to re-enact an act entitled an act to authorize Charles Francisco and David Abbott to construct and maintain a ferry across Sun river."

Read first and second time, and referred to a Select Committee of three, consisting of Messrs. Gallaher, Edwards, and Patton.

Mr. Patton moved to adjourn. Lost.

Mr. Word, chairman of the Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred House Bill No. 28, beg leave to report the same back, with the recommendation that it do not pass.

Report received.

On motion of Mr. Word, H. B. No. 23 was laid on the table for further consideration.

Mr. Patton moved to adjourn.

Mr. Edwards offered the following resolution :

Resolved, That hereafter upon the passage of a bill, the call of the roll shall be dispensed with, unless the ayes and nays are demanded.

On motion of Mr. Word, the resolution was laid on the table.

On motion of Mr. Boswell, the House adjourned.

TWENTY-FOURTH DAY.

NOVEMBER 27, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the chaplain.

Journal of yesterday read and approved.

Mr. Comly, chairman of the Committee on Engrossment, reported H. B. No. 24 as correctly engrossed.

On motion of Mr. Comly, the Committee of Ways and Means have until 2½ P. M. on Saturday, 30th instant, to report on H. B. No. 18.

Mr. Boswell, chairman of the Select Committee, to whom was referred C. B. No. 3, "An Act to provide for the funding of the debt of Montana Territory," reported as follows :

MR. SPEAKER—Your Select Committee, to whom was referred C. B. No. 3, being "An Act to provide for the funding of the debt of Montana Territory," have had the same under consideration, and beg leave to report the same back to the House, and recommend that it pass, with the following amendments :

In section 8, strike out "1869," and insert "1868" in lieu thereof.

Also, in same section, after the word "Legislature," add the following :

"And the principal and interest upon said bonds shall be payable in the city of New York, as the holder or holders thereof may elect. *Provided*, That the holder or holders shall give the Territorial Treasurer due notice of a designated bank, in said city of New York, at which said bond or bonds and interest thereon shall be paid, otherwise the same shall be payable at the seat of government of Montana Territory."

Report received.

Mr. Word moved, that the House do now resolve itself into Committee of the Whole. Motion lost.

C. B. No. 3 was then read for information.

Mr. Word moved to amend section one, by striking out the word "shall," in second line, and inserting the word "may." And insert the words "at the option of the holders of such warrants," after the word "up," in the third line, and before the word "on," in the same line. Motion lost.

On motion of Mr. Weston, the bill was referred to a Select Committee of three, consisting of Messrs. Weston, Comly, and Patton.

The following communication was received from the Council, through their Chief Clerk, Mr. Wade:

That H. J. R. No. 1, "Authorizing the Auditor to draw warrants to pay for an arsenal and magazine," had passed the Council.

On motion of Mr. Rhodes, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session, at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Patton, Simms, and Word.

Mr. Tennant reported H. J. R. No. 1 correctly enrolled.

Notices for the introduction of the following bills were given:

By Mr. Weston, "An Act to re-enact an act entitled an act to incorporate the Gold Hill Tunneling and Mining Company."

By Mr. Patton, "An Act to re-enact an act entitled an act to incorporate the Black Tail Deer and Helena Wagon Road Company, passed at the second Legislature of Montana Territory."

H. B. No. 24, "An Act to amend an act securing liens to mechanics and others, approved December 30, 1864," was put upon its final passage.

Read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Simms and Tennant.

Title agreed to.

Mr. Edwards, chairman of the Committee on Mines and Minerals, reported as follows, to wit:

MR. SPEAKER—Your Committee on Mines and Minerals, to whom was referred House Bill No. 29, report the same back, recommending that the same pass without amendment.

Report received.

On motion of Mr. Comly, the House resolved itself into Committee of the Whole, to consider H. B. No. 29.

Mr. Comly in the chair.

The House resumed. Mr. Speaker in the chair.

The following message was received from the Council, through Mr. Wade, their Chief Clerk :

MR. SPEAKER—I am directed by the Council to inform your honorable body, that C. B. No. 28, “An Act to provide for a system of common schools of Montana Territory,” was indefinitely postponed.

Also, that Mr. President introduced C. B. No. 45, “An Act to amend an act entitled an act to establish a common school system, approved February 7, 1865.”

The following communication was received from the Governor, through Mr. Cummings, his private secretary :

MR. SPEAKER—I am directed by the Governor to inform the House, that he has this day approved House Joint Resolution No. 1, “Authorizing the Auditor to pay for arsenal and magazine.”

Mr. Comly, chairman of the Committee of the Whole, to whom was referred H. B. No. 29, reported as follows :

MR. SPEAKER—The Committee of the Whole, to whom was referred H. B. No. 29, beg leave to report, that they have had the same under consideration, and recommend that it be committed.

Report received.

Report of the Committee concurred in, and the bill ordered printed.

Mr. Boswell, chairman of the Select Committee, to whom was referred H. B. No. 16, reported as follows :

MR. SPEAKER—Your Committee, to whom was referred House Bill No. 16, have had the same under consideration, and beg leave to report the same back, and recommend that it be considered in Committee of the Whole.

Report received and concurred in.

Mr. Tennant introduced H. B. No. 32, "An Act to re-enact an act entitled an act to authorize Thomas A. Holmes and Luther M. Brown and their associates, heirs, and assignees, to establish a ferry across the Missouri river."

On motion of Mr. Word, the bill was read a first and second time by its title, and referred to Committee on Internal Improvements.

On motion of Mr. Anderson, the House adjourned to 10 o'clock, A. M., on Friday.

TWENTY-SIXTH DAY.

NOVEMBER 29, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Kennerly, Simms, and Tennant.

Prayer by the chaplain.

Journal of Wednesday read and approved.

Mr. Rhodes, chairman of the Committee of Ways and Means, reported as follows :

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred C. B. No. 38, have had the same under consideration, and would recommend that the bill pass.

Report received.

Mr. Gallaher, chairman of the Committee on Agriculture and Manufactures, reported as follows, upon C. B. No. 32:

MR. SPEAKER—Your Committee, to whom was referred C. B. No. 32, beg leave to report the same back to the House, with a recommendation that it pass.

Report received.

Mr. Word, chairman of the Committee on Printing, reported as follows :

MR. SPEAKER—Your Committee on Printing, to whom H. B. No. 25 was referred, being “An Act to amend an act concerning licenses,” beg leave to report the same back correctly printed.

Report received.

Mr. Patton, chairman of the Select Committee, to whom was referred H. B. No. 21, made the following report:

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 21, “An Act entitled an act to dissolve the bonds of matrimony existing between James B. and Amanda Dority,” beg leave to report it back to the House, with accompanying testimony, to be considered in the Committee of the Whole.

Report received.

Notices for the introduction of the following bills were given:

By Mr. Edwards, “An Act to re-enact an act to authorize Constant Guyot, his heirs and assigns, to construct and maintain a toll road from the Little Blackfoot river to the Ten Mile and Helena road.”

By Mr. Comly, “An Act entitled an act supplementary to an act for the protection of roads.”

Mr. Weston, chairman of the Select Committee, to whom was referred Council Bill No. 3, made the following report:

MR. SPEAKER—The undersigned, being one of the Select Committee, to whom C. B. No. 3, entitled “An Act to provide for the funding of the debt of Montana Territory,” was referred, would respectfully report on said bill, as follows:

Amend the same by striking out section one, and substituting the following in lieu thereof:

“SECTION 1. That the Treasurer of Montana Territory shall, on or before the first day of June, A. D. 1868, issue bonds of the Territory of Montana, as hereinafter provided, for all territorial warrants outstanding and unpaid, on the first day of November, A. D. 1867, which may be presented for that purpose, on or before the first of June, 1868.”

The undersigned is of opinion, should section one, as it now stands, be passed and become a law, that the benefits to accrue to the Territory by virtue of this act would be seriously endangered, from the fact that grave questions of legality would be started, which, whether sustained or not, would influence many who are

desirous of bonding their warrants in a manner injurious to the operations of the law, and would, perhaps, involve the Territory in many and serious law suits in its enforcement, which the Auditor and Treasurer, under their oaths of office, would be compelled to institute, thus offsetting, in legal expenses, all the benefits which the advocates of this section claim for the Territory, in the event of its adoption. And should the law be decided by a competent tribunal to be unconstitutional, null and void, in addition to the expense arising from legal proceedings, the cost of engraving and making those bonds would be a total loss, to say nothing of the injurious consequences resulting from the fact that our finances would be in no better state than they are to-day, if not worse.

The undersigned would earnestly recommend the adoption of section 2 as it appears in the original bill without amendment; and in sustaining this position, would respectfully make the following suggestions:

First—The object of this bill is to postpone the payment of the outstanding unpaid warrants to such time as the Territory will be able to pay them, in order that it may pay cash hereafter for all accumulating liabilities, and by that means reduce the expenses of the government.

Secondly—To do this, it is proposed to issue bonds, or, in other words, to fund the outstanding indebtedness.

Thirdly—The great desideratum in making these bonds is to make them such bonds as will be sought after; for inasmuch as it is generally conceded that we cannot compel the warrant holder to exchange his warrants for bonds, it must certainly be evident to all that by so arranging these bonds that they may offer an inducement to capital to invest, we are enhancing marketable value, and by this means inducing the warrant holders to exchange their warrants for them; thus accomplishing the end desired, namely, the funding of the debt, and the placing of the transactions of the Territory on a cash basis.

The undersigned would, therefore, recommend that these bonds be secured as an investment to the holder for at least two years, and payable at the pleasure of the Territory after that time until the time recognized by the bill for their final payment. By so doing, it is the opinion of the undersigned that they will be sought after by those desiring to secure investments at remunerative

interest; while by striking out the clause "after two years," as has been proposed, you would only be putting the Territory to an expense in getting up these bonds, without accomplishing any good results. In order to make this bill conform to the foregoing, it will be necessary, and therefore the undersigned recommends, that section 10 be amended by adding at the end of the first line, and before the first word in the second line of the written bill, the words "the expiration of two years after." These, with the amendments heretofore adopted, not inconsistent with the above, the undersigned begs most respectfully to submit.

HARRY R. COMLY,

Member of Select Committee on C. B. No. 3.

Concurred in.

J. R. WESTON, *Chairman.*

F. E. W. PATTON.^h

Report received.

Mr. Patton introduced H. B. No. 33, "An Act to re-enact an act entitled an act to incorporate the Black Tail Deer and Helena Wagon Road Company."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Boswell introduced the following resolution, which was adopted:

Resolved, That Bishop Tuttle be requested to furnish to this House a copy of his sermon delivered on Thanksgiving day.

The following communication was received from the Council, through Mr. Menaugh, their Assistant Clerk:

That C. B. No. 5, entitled "An Act to amend an act relating to the discovery of gold and silver quartz lodes, leads or ledges, and the manner of their location," has passed the Council.

Also, that Mr. Orr had introduced C. J. M. No. 1, to the Congress of the United States, petitioning them to pass "An Act authorizing the citizens of Montana Territory to call a Convention to form a Constitution preparatory to her admission into the Union."

C. B. No. 5, "An Act to amend an act entitled an act relating to the discovery of gold and silver quartz lodes, leads or ledges, and the manner of their location," was read first and second time, and referred to the Committee on Mines and Minerals.

C. B. No. 32, "An Act to amend an act concerning weights and measures, approved January 24, 1865," was put upon its final passage, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Kennerly, Simms, and Tennant.

Title agreed to.

C. B. No. 38, "An Act authorizing the county commissioners of Missoula county to raise a special tax for bridge purposes," was put upon its final passage, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Kennerly, Simms, and Tennant.

Title agreed to.

C. B. No. 3 was taken up, and, on motion of Mr. Comly, the House resolved itself into Committee of the Whole, to consider said bill. Mr. Comly in the chair.

The following communication was received from the Council:

That C. B. No. 43, "An Act relative to fires, and the protection of grasses," had passed the Council, and that—

H. B. No. 22, "An Act to re-enact an act entitled an act to authorize Robert Tingly, John Kennedy, and their associates, to construct a wagon road around the falls of the Missouri river," had passed the Council.

On motion of Mr. Anderson, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, p. m. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Mr. Edwards, chairman of the Committee on Internal Improvements, reported as follows, upon H. B. No. 32:

MR. SPEAKER—Your Committee on Internal Improvements, to whom was referred H. B. No. 32, report the same back, and recommend that it be put upon its final passage.

Mr. Word, chairman of the Committee on Printing, reported as follows:

MR. SPEAKER—Your Committee on Printing, to whom was referred H. B. No. 27, being “An Act to provide for organizing and disciplining the militia of the Territory of Montana,” beg leave to report the same back to the House, correctly printed.

Report received.

C. B. No. 43, “An Act relating to fires, and the protection of timber and grasses,” was read first and second time, and referred to the Committee on Agriculture and Manufactures.

A communication was received and read from Bishop Tuttle.

Mr. Comly, chairman of the Committee of the Whole, reported as follows:

MR. SPEAKER—The Committee of the Whole, to whom was referred C. B. No. 3, being “An Act to provide for the funding of the debt of Montana Territory,” beg leave to report that they have had the same under consideration, and recommend that the House

adopt the amendments as reported by the Select Committee to whom the bill was last referred, and in addition the amendments adopted in the Committee of the Whole, which are as follows:

Strike out section 1, and substitute the following:

“SECTION 1. That the Treasurer of Montana Territory shall, on or before the first day of June, A. D. 1868, issue bonds of the Territory of Montana, as hereinafter provided, for all territorial warrants outstanding and unpaid on the first day of November, A. D. 1867, which may be presented for that purpose on or before the first of June, 1868.”

Second—Amend section by striking out “1869,” and inserting in lieu thereof, “1868.”

Add the following, after the word “Legislature,” in section 8; “And the principal and interest upon said bonds shall be payable in the city of New York, as the holder or holders thereof may elect: *Provided*, that the holder or holders shall give the Territorial Treasurer due notice of a designated bank in said city of New York, at which said bond or bonds, and interest thereon, shall be paid; otherwise the same shall be payable at the seat of government of Montana Territory.”

In section 10 strike out the word “sixty,” and insert the word “thirty,” in lieu thereof.

Amend section 10 by adding at the end of the first line of the written bill, the words “the expiration of two years after.”

Amend section 10 by striking out the word “fifteen,” in the third line of printed copy, and inserting the word “two,” in lieu thereof.

All of which is respectfully submitted.

Report received.

Mr. Anderson moved that the report of the Committee be adopted by sections.

Mr. Gallaher moved to lay the amendments reported on the table.

Motion lost.

Mr. Anderson's motion was then adopted.

On motion of Mr. Comly, the substitute for section one was adopted by the following vote :

Ayes—Messrs. Comly, Edwards, Patton, Tennant, Weston, Word, and Mr. Speaker—7.

Nays—Messrs. Anderson, Boswell, Gallaher, and Rhodes—4.

Absent—Messrs. Kennerly and Simms.

On motion of Mr. Comly, the following amendment was adopted :

Amend section 8 by striking out “1869,” and inserting “1868,” in lieu thereof.

On motion of Mr. Anderson, the following amendment was adopted :

Add the following after the word “legislature,” in section 8 : “And the principal and interest upon said bonds shall be payable in the city of New York, as the holder or holders thereof shall elect. *Provided*, that the holder or holders shall give the Territorial Treasurer due notice of a designated bank in the said city of New York, at which said bond or bonds, and interest thereon, shall be paid; otherwise the same shall be paid at the seat of government of Montana Territory.”

On motion of Mr. Anderson, the following amendment was made to section 10 :

Strike out the word “sixty,” and insert the word “thirty,” in lieu thereof.

Mr. Comly moved to amend section 10 by adding, at the end of the first line of the written bill, the following words, “the expiration of two years,” which motion passed by the following vote :

Ayes—Messrs. Boswell, Comly, Edwards, Patton, Rhodes, Tennant, Word, and Mr. Speaker—8.

Nays—Messrs. Anderson, Gallaher, and Weston—3.

Absent—Messrs. Kennerly and Simms.

Mr. Tennant moved that the following amendment be made to section 10 :

Amend section 10 by striking out the word “fifteen,” in the third line of printed copy, and inserting the word “two,” in lieu thereof.

On motion of Mr. Wood, the following amendment was adopted :
In section 10, after the word "in," and before the word "news,"
strike out "three," and insert "two."

The bill was then adopted as amended.

On motion of Mr. Comly, the bill was read a third time by title,
and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Patton, Rhodes,
Tennant, Word, and Mr. Speaker—8.

Nays—Messrs. Edwards, Gallaher, and Weston—3.

Absent—Messrs. Kennerly and Simms.

The title was agreed to.

The following message was received from the Council, through
their Chief Clerk, Mr. Wade :

MR. SPEAKER—I am directed to inform your honorable body
that Mr. Cullen has introduced C. B. No. 46, entitled "An Act
to repeal sections 9 and 10 of an act entitled an act concerning
limitations," and—

That C. B. No. 42, "An Act to amend an act entitled an act
to incorporate the city of Nevada, approved February 9, 1865,"
has passed the Council.

H. B. No. 32, "An Act to re-enact an act to authorize Thomas
A. Holmes and Luther M. Brown, and their associates, heirs and
assigns, to establish a ferry across the Missouri river," was put
upon its final passage, read third time, and passed.

Ayes—Messrs. Comly, Edwards, Gallaher, Patton, Rhodes, Ten-
nant, Weston, and Mr. Speaker—8.

Nays—Messrs. Anderson and Boswell—2.

Absent—Messrs. Kennerly, Word, and Simms.

The title was agreed to.

H. B. No. 21, "An Act to dissolve the bonds of matrimony now
existing between James B. Dority and Amanda J. Dority," was
read the third time, and lost.

Aye—Mr. Edwards.

Nays—Messrs. Anderson, Boswell, Comly, Gallaher, Rhodes, Tennant, Weston, Word, and Mr. Speaker—9.

Mr. Patton was excused.

Absent—Messrs. Kennerly and Simms.

H. B. No. 25, “An Act concerning licenses,” was referred to Committee on Finance.

Mr. Word introduced H. B. No. 35, “An Act to amend an act concerning crimes and punishments.”

Read first and second time, and, on motion of Mr. Tennant, the rules were suspended, the bill read third time by its title, and put upon its final passage, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Kennerly and Simms.

Title agreed to.

H. B. No. 16, “An Act to re-enact an act to incorporate the Beaver Head Wagon Road Company.”

On motion of Mr. Word, the bill was taken from the Committee of the Whole.

On motion of Mr. Word, H. B. No. 16 was read the third time by its title, and put upon its final passage. Read third time, and passed.

Ayes—Messrs. Comly, Edwards, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—8.

Nays—Messrs. Anderson and Boswell—2.

Absent—Messrs. Kennerly, Gallaher, and Simms.

The title was agreed to.

~~C~~ C. B. No. 42, “An Act to amend an act to incorporate the city of Nevada, approved February 9, 1865,” was read first and second

time, and on motion of Mr. Tennant, the rules were suspended, and the bill put upon its final passage. Read third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—9.

Nay—Mr. Boswell.

Absent—Messrs. Gallaher, Kennerly, and Simms.

The title was agreed to.

On motion of Mr. Anderson, the House adjourned.

TWENTY-SEVENTH DAY.

NOVEMBER 30, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Patton and Simms.

Prayer by the chaplain.

Journal of yesterday read and approved.

Mr. Tennant, Committee on Enrollment, made the following report :

That H. B. No. 22 was correctly enrolled.

Mr. Edwards introduced H. B. No. 36, "An Act to re-enact an act entitled an act to authorize Constant Guyot, his heirs and assigns, to construct a toll road from Little Blackfoot river to the Helena and Ten Mile road."

Read first and second time, and on motion, the rules were suspended, the bill read third time by its title, and passed.

Ayes—Messrs. Comly, Edwards, Gallaher, Kennerly, Patton, Tennant, Weston, Word, and Mr. Speaker—9.

Nays—Messrs. Anderson, Boswell, and Rhodes—3.

Absent—Mr. Simms.

The title was then agreed to.

Mr. Weston introduced H. B. No. 37, "An Act to re-enact an act entitled an act to incorporate the Gold Hill Mining and Tunneling Company of Montana, approved April 2, 1866."

Read first and second time, and on motion, the rules were suspended, and the bill read the third time by its title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Edwards, Simms, and Word.

The title was then agreed to.

On motion of Mr. Anderson, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher, Kennerly, and Simms.

Mr. Rhodes, chairman of the Committee of Ways and Means, reported as follows :

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred H. B. No. 18, have had the same under consideration, and believing as an act of justice, that Edward Lovelock and W. K. Roberts should receive the relief in part, if not all, and not having the evidence as to the facts of the Cave Gulch murder, would respectfully beg leave to recommend that said bill be referred to Committee of the Whole.

Report received.

On motion of Mr. Word, H. B. No. 18 was referred to the Committee of the Whole, and made the special order for 2½ P. M., on Monday.

On motion of Mr. Word, the Select Committee, to whom was referred C. B. No. 36, was granted further time to report.

Mr. Gallaher gave the following notice :

MR. SPEAKER—Notice is hereby given that I will, on Monday next or some subsequent day, introduce a bill for an act to incorporate the “Montana Agricultural and Mechanical Association.”

Mr. Gallaher, chairman of Committee on Agriculture and Manufactures, reported as follows, to wit :

MR. SPEAKER—Your Committee on Agriculture and Manufactures, to whom was referred C. B. No. 43, have had the same under consideration, and beg leave to report the bill back to the House, with a recommendation that it pass.

Report received.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That the House amendments to C. B. No. 3, entitled “An Act to provide for the funding of the debt of Montana Territory,” have been concurred in.

C. B. No. 43 was taken up, and read for information.

On motion of Mr. Anderson, the following amendment was adopted :

Strike out in section one, the words “three hundred,” and insert “twenty-five” in lieu thereof.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms.

The bill was then put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms—2.

The title was then agreed to.

Mr. Tennant, chairman of the Committee on Enrollment, reported as follows:

That H. B. No. 22 was duly handed to the Governor for his signature, on November 30, 1867, at 2 o'clock, P. M.

On motion of Mr. Boswell, the House adjourned until 10 o'clock, A. M., on Monday.

TWENTY-NINTH DAY.

DECEMBER 2, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the chaplain.

Journal of Saturday read and approved.

Mr. Word presented a petition from the citizens of Madison county.

Referred to a Select Committee of three, consisting of Messrs. Patton, Word, and Kennerly.

Mr. Word presented a petition from the citizens of the Yellowstone country, in relation to a ferry across the Yellowstone river.

Read, and referred to the Committee on Incorporations.

Mr. Patton, chairman of the Committee on Finance, reported as follows:

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 25, “An Act entitled an act concerning licenses,” beg leave to report that they have had said bill under consideration, and report the same back to the House, and recommend that, with the accompanying amendment to section 9, it do pass :

Amend section 9 by inserting after the word “month,” in second line in printed copy, the following :

“And any traveling hawker or peddler who shall use a cart, wagon, or other vehicle, for the purpose of conveying their goods, wares and merchandise, shall pay a license of thirty dollars per month.”

Report received.

Mr. Rhodes, chairman of the Committee of Ways and Means, reported as follows, to wit:

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred the petition of J. J. Roe & Co., have had the same under consideration, and would respectfully recommend the accompanying joint resolution do pass.

Report received.

Mr. Anderson, chairman of Committee on Territorial Affairs, reported as follows, to wit:

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 6, being “An Act to amend an act securing liens to mechanics and others,” beg leave to report, that inasmuch as a similar act has already passed this body, covering all the provisions contained in this act, they respectfully ask that it be indefinitely postponed.

Report received.

Mr. Tennant, chairman of the Joint Committee, to whom was referred the military operations of the militia of this Territory, reported as follows, to wit:

MR. SPEAKER—Your Committee, appointed to act in conjunction with a committee from the Council, to inquire into matters concerning the late Indian expedition, beg leave to report as follows:

Your Committee met at the Governor’s office, November 27, 1867, and there examined and took the statements of Col. J. J. Hull, Commissary of Subsistence, Col. Hamilton Cummings, Quarter Master General, and Col. A. M. S. Carpenter, Chief of Ordnance; and your Committee further examined documents, letters, etc., in the possession of the Governor, relative to the

aforesaid expedition, from which sources they determined the following:

The department of Commissary of Subsistence, for flour, bacon, and other provisions for the forces in the field, has incurred a debt of about one hundred and seventy-three thousand dollars. The department of Quarter Master General, for clothing, horses, and equipments, forage, etc., has incurred a debt of about eight hundred thousand dollars. The Ordnance department, for arms, ammunition, and cavalry equipments, has incurred a debt of about fifty thousand dollars. From these and other sources we estimate the whole debt incurred by the expedition to be about eleven hundred thousand dollars.

The above purchases were made in accordance with the U. S. army regulations, to wit: by public advertisement for sealed proposals, and in every instance the contracts were awarded to the lowest bidder, giving the security required.

Your Committee believe that the provisions, equipments, etc., purchased as above, were made at reasonable figures, considering the state of the market, and all the circumstances surrounding the case. From the communications received by the Governor from the Secretary of War, Generals Sherman, and Terry, your Committee are of the opinion that the Governor had sufficient authority from the General Government to act in the premises as has been done; and your Committee believe that a proper representation of the above facts to the Congress of the United States, by joint memorial of the Legislature of Montana, accompanied with abstracts of accounts from the different departments, could not have otherwise than the effect to induce Congress to make the necessary appropriations for paying the above indebtedness, which has no doubt been incurred by the General Government.

Your Committee would therefore recommend that a joint committee of one from each House of the Legislature be appointed, to draw up a memorial for the purpose herein named.

Report received.

The following message was received from the Council, through Mr. Menaugh, their Assistant Clerk:

That Mr. Cullen gave notice of the introduction of a bill entitled "An Act relative to the pre-emption of town sites upon the public lands, and the disposal of the trusts created thereby."

That Mr. Rand introduced C. B. No. 47, entitled "An Act defining the Council and Representative districts of Montana, and apportioning the members of the Legislative Assembly."

That the House amendments to C. B. No. 21 have been concurred in.

That the House amendments to C. B. No. 43 have been concurred in.

Mr. Anderson, chairman of Committee on Territorial Affairs, reported as follows :

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred that portion of the Governor's Message in relation to the location of the territorial penitentiary, beg leave to report, that the present Legislature have already acted upon and located that institution, and therefore there is no action to be taken in the matter by your Committee.

Report received.

Mr. Wade, Chief Clerk of the Council, delivered the following message :

That House Bills Nos. 15, 28, and 32, had passed the Council.

Mr. Comly, previous notice being given, introduced H. B. No. 38, "An Act supplementary to an act for the protection of roads."

Read first and second time, rules suspended, read third time, and passed by the following vote :

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was then agreed to.

Mr. Gallaher gave the following notice:

MR. SPEAKER—Notice is hereby given, that I will, on to-morrow or some future day, introduce a bill for “An Act to survey and establish a territorial road from Bozeman City, Gallatin county, to Helena City, Edgerton county.”

Mr. Tennant introduced the following resolution, which was, on motion, adopted:

“*Resolved*, That a Committee of one be appointed by the chair, to act in conjunction with a like committee from the Council, to draft a memorial to Congress, asking for an appropriation to pay the debt incurred by the late military expedition against the Indians.”

Mr. Tennant was appointed said committee on the part of the House.

C. B. No. 46, “An Act to repeal sections 9 and 10 of an act entitled an act concerning limitations.”

Read first and second time, and referred to the Committee on Judiciary.

H. B. No. 6, “An Act to amend an act entitled an act securing liens to mechanics and others,” was, on motion of Mr. Patton, indefinitely postponed.

Mr. Gallaher moved, that the report of the Committee upon H. B. No. 25 be laid on the table. Lost.

Mr. Patton moved to amend the amendment of the Committee on Finance, by striking out the word “thirty,” and inserting the word “fifteen.”

Mr. Word moved to lay the amendment to the amendment on the table. Motion lost.

Mr. Gallaher moved to lay the amendment of the Committee on Finance on the table. Carried.

On motion of Mr. Comly, the following amendment was adopted:

Amend section 9 by adding the following: "*Provided*, That peddlers or hawkers selling or hawking the agricultural products of this country only shall pay a license of ten dollars per quarter."

On motion of Mr. Word, H. B. No. 25 was referred to the Committee of the Whole, and made the special order for three o'clock this P. M.

Mr. Word, chairman of Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Judiciary Committee, to whom was referred C. B. No. 46, being “An Act to repeal sections 9 and 10 of an act concerning limitations,” beg leave to report the same back to the House, and recommend that the same pass, with the following amendments:

Amend section one by striking out the word “and” between the words “nine” and “ten,” in the first line, and inserting the words “and twenty-four,” after the word “ten,” in first line.

Add the following section:

“SECTION 2. This act to take effect and be in force from and after its passage and approval by the Governor.”

Report received and concurred in.

On motion of Mr. Word, the bill was put upon its final passage, read the third time, and passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was amended by striking out the word “and” between the words “nine” and “ten,” and inserting after the word “ten,” the words “and twenty-four.”

The report of the Committee of Ways and Means upon the petition of J. J. Roe & Co. was adopted.

And Mr. Rhodes introduced H. J. R. No. 2, "Authorizing the Auditor to issue warrants to J. J. Roe & Co."

Read first and second time, and on motion of Mr. Word, the following amendment was adopted :

Amend the resolution by striking out the word "six," and inserting the word "eight" in lieu thereof.

On motion of Mr. Word, the resolution was adopted, as amended.

On motion, the rules were suspended, and the resolution was put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Comly, Edwards, Gallaher, Kennerly, Patton, Tennant, Weston, Word, and Mr. Speaker—9.

Nays—Messrs. Anderson, Boswell, and Rhodes—3.

Absent—Mr. Simms.

The title was then agreed to.

On motion of Mr. Tennant, the House took a recess until two o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Mr. Comly, chairman of Committee on Federal Relations, reported as follows :

MR. SPEAKER—Your Committee on Federal Relations, to whom was referred certain portions of the Governor's Message, to wit :

All that portion of said message which refers to the currency of the country, and all that portion which refers to the annulment of the laws of the last session of the Legislature of Mon-

tana, by Act of Congress, and which last appears in said Message in the following language: "Congress, at its last session, by an act which is herewith submitted, annulled the laws of the Territory passed at the sessions of March and November, 1866, and February, 1867. Without discussing the causes which led to this interruption of the laws passed by the will of the people, and only remarking that I am sure it was the result of political feeling alone, I hope the Legislature will, without hesitancy, proceed to re-enact all the laws heretofore passed, not prohibited by the Act of Congress of March 2nd, 1867," would respectfully report, that they have examined with due care and deliberation the aforesaid portions of the Message of His Excellency the Governor, and respectfully submit the following as their opinions concerning the matters therein referred to :

With all due respect for the Executive of this Territory, we are compelled, after a careful examination of all the points involved, to disagree with him in his recommendation concerning the currency of the Territory, for the following reasons, to wit :

First. The change recommended would be changing a circulating medium which is convenient for all purposes of trade, and which has an intrinsic value in itself, for one which is in many ways inconvenient, and has no intrinsic value whatever, and is subject to violent fluctuations in representative value, owing to the uncertain status of our national affairs.

Secondly. The laws passed by the Congress of the United States recognized the so-called legal tender notes, commonly called greenbacks, as the currency of the whole country, notwithstanding the doubtful powers exercised by Congress in enacting these laws, and the Supreme Court of this Territory, composed of Federal appointees, upholds, as far as we have been able to learn, the validity and constitutionality of the aforesaid laws.

Your Committee have therefore deemed it futile and unnecessary to enact any laws on this subject, which would be merely placing upon our statute books laws of the United States which, notwithstanding their doubtful constitutionality, are in full force amongst us.

Thirdly. Your Committee are of the opinion, that to enact any law, making anything else but gold and silver a legal tender

in payment of debts, would be in direct violation of the stipulations contained in the tenth section of the first article of the Constitution of the United States, which, among other provisions, contains the following: "No State shall make anything but gold and silver coin a tender in payment of debts." Notwithstanding, however, that the gold dust which is now the basis of value and the circulating medium of this country, is deemed by your Committee far superior to the so-called "legal tender notes" of the United States, yet they are fully aware that the same is not entirely free from objection, and your Committee believe that our currency could be greatly improved by the substitution therefor of the gold and silver coin of the United States, and in this connection would recommend that the Legislature memorialize Congress for the purpose of establishing a branch mint in this Territory, and with this end in view, your Committee would respectfully offer the annexed joint memorial for your consideration, in which we believe the reasons set forth fully demonstrate the necessity of such an establishment.

Your Committee would also respectfully submit, that they fully concur with His Excellency the Governor, in his view concerning the advantages to be derived by this Territory from such legislative action as will induce Eastern capitalists to seek investments in our rich mineral lodes, and also believe that the advantages to be derived from the development of these mines are incalculable. But your Committee beg leave most respectfully to differ from His Excellency the Governor in the manner in which this great desideratum could be accomplished, and beg leave to suggest, that whether the cost of investing in the rich quartz lodes of this country be calculated in gold or greenbacks, the actual expenditure of value would be the same, and would be immediately perceived by the Eastern capitalist. Your Committee believe that we can, by legislative action, secure this desirable result by other means less objectionable than the passage of any law attempting to regulate the currency of the country, and would recommend the passage of a good general incorporation act, by which capital would be made more secure when properly invested, taking care, however, to so restrict the provisions of the act, that

they may not be injurious to the great mass of our people, or allow Eastern capital to monopolize all our rich mineral lands.

Your Committee further believe, that one great drawback to the investment of Eastern capital in our gold and silver mines, arises from the fact that our country is practically unsettled, and our laws unsettled, because we are within the control of the Federal Government, and Congress has seen fit to interfere with our local laws and institutions, thus seriously affecting the investment of capital under those laws, and as a remedy for this state of political chaos, your Committee recommend the adoption of a joint memorial to Congress, asking for an enabling act to empower the Territory of Montana to call a convention for the purpose of framing a Constitution for a State Government preparatory to its admission into the Union.

Here your Committee desire to call your attention to that portion of the Message which recommends the re-enactment of the laws annulled by Congress, and, in considering this, it will be well to examine the act known as the annulment act, and inquire which acts Congress intended to give us the power to re-enact.

The first section of this Act of Congress, which went into force March 2nd, 1867, provides, that after that date the Legislative Assembly shall not grant any more private charters or special privileges, and in section 6, all acts passed at the session of our Legislature held in 1866 are declared null and void, except such acts as the Legislature therein authorized might, by special act in each case, re-enact. It would seem then, under these two provisions, that it was intended to annul all acts, whether public or private, but from the fact that the first section of the act, which applies to all the Territories, prevents the Legislature from granting any more private charters after March 2nd, 1867, it would seem that the saving clause in section 6 would apply more particularly to private acts passed prior to March 2nd, 1867, and which can never again be granted anew, than to general laws which this Legislature would have undoubted authority to re-enact had this saving clause, viz: "except such acts, etc.," never been introduced.

It was no doubt the intention of Congress, as well as those politicians holding Federal appointments in this Territory, through

whose influence this annulment act was procured, to abolish all acts, whether general or special, perhaps with a view on the part of the aforesaid judicial politicians, to have some particular laws abrogated which were peculiarly obnoxious to themselves, and which they would not have dared to have asked to be annulled separately.

It is the opinion of your Committee that Congress was misled by these would-be friends of our Territory, these gentlemen in ermine, and that these laws were not annulled because they were bad laws, for the very act which annuls provides that this Legislature may re-enact.

The question then naturally arises, why this wholesale over-slaughing of the will of the people of Montana, as expressed through their Legislative Assemblies?

In answer to this, your Committee would beg leave to call your attention to the fact, that in the laws passed by the first Legislature, the only ones that were allowed to stand on our statute books, there is an act to be found on page 391, of the Bannack statutes, of which the following is a copy of section 1:

“SECTION 1. The salaries of the following officers are hereby increased, in addition to the sums already provided by the United States Government, as follows: to the Governor and each of the justices of the Supreme Court, the sum of twenty-five hundred dollars.”

This act was repealed by an act of the second Legislature which was annulled, and it may be found on page 3 of the printed copy of the acts of said Legislature.

Section 2 of this act is as follows:

“SEC. 2. *Be it further enacted*, That all acts and parts of acts passed at the last session of the Legislative Assembly of the Territory of Montana, allowing additional or any compensation to the Governor, judges of supreme or district courts, members of the Legislative Assembly, or any officers of the Council or House of Representatives of this Territory, be and the same are hereby repealed.”

The effect of the annulment act was to repeal this last mentioned act, and thus reinstate in full force the act giving increased compensation to certain officers, and, remarkable as it may seem,

certain of these officers freely acknowledge that it was through their influence our laws were annulled.

Therefore your Committee believes that His Excellency the Governor is entitled to much praise in recommending that these acts so annulled be re-enacted by this Legislature.

Your Committee believes that the laws thus annulled were good and wholesome laws, and would add their voices to the Governor's in recommending their re-enactment.

All of which is respectfully submitted.

Mr. Edwards reported as follows, as chairman of Committee on Mines and Minerals :

MR. SPEAKER—Your Committee on Mines and Minerals, to whom was referred C. B. No. 5, report the same back, with the request that it pass without amendment.

Report received.

C. B. No. 5, "An Act to amend an act entitled an act relating to the discovery of gold and silver quartz lodes, leads or ledges, and the manner of their location," was put upon its final passage.

Read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Gallaher and Simms.

The title was then agreed to.

The following communication was received from the Governor, through his private secretary :

MR. SPEAKER—I am directed by the Governor to inform the House, that he has this day approved and signed H. B. No. 22, entitled "An Act to re-enact an act entitled an act to authorize Robert Tingly and John Kennedy and their associates to construct a wagon road around the falls of the Missouri river."

Mr. Anderson moved that H. B. No. 30 be made the special order for 7 o'clock, P. M. Lost.

Mr. Comly moved to make House Bill No. 30 the special order for 6 P. M.

Mr. Boswell moved to amend by making the bill the special order for 10 o'clock, A. M., to-morrow.

Motion carried.

The House resolved itself into Committee of the Whole, to consider H. B. No. 18. Mr. Kennerly in the chair.

The House resumed. Mr. Speaker in the chair.

Mr. Kennerly was granted time to report.

The House then resolved itself into Committee of the Whole, to consider H. B. No. 25. Mr. Patton in the chair.

House resumed. Mr. Speaker in the chair.

Mr. Kennerly reported progress on H. B. No. 18, and asked leave to sit again.

Report received.

Mr. Tennant, chairman of Committee on Enrollment, reported H. B. Nos. 15, 28, 32, and 36, as correctly enrolled.

Mr. Patton, chairman of Committee of the Whole, reported progress upon H. B. No. 25, and asked leave to sit again at 7 o'clock, P. M.

On motion of Mr. Comly, the House took a recess until 7 o'clock, P. M.

EVENING SESSION.

House resumed at 7 o'clock, P. M. Mr. Speaker in the chair. |

Roll called—absent, Messrs. Simms and Weston.

The House then resolved itself into Committee of the Whole, for the further consideration of H. B. No. 25. Mr. Patton in the chair.

House resumed. Mr. Speaker in the chair.

Mr. Patton was granted until 10 A. M. to-morrow to report.

On motion of Mr. Anderson, the House adjourned.

THIRTIETH DAY.

DECEMBER 3, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher, Patton, and Simms.

Prayer by the chaplain.

Journal of yesterday read and approved.

The House resolved itself into Committee of the Whole, to consider H. B. No. 30, which was made the special order for 10 clock, A. M.

Mr. Boswell in the chair.

House resumed. Mr. Speaker in the chair.

On motion of Mr. Comly, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Kennerly, Patton, and Simms.

Mr. Boswell, chairman of the Committee of the Whole, reported as follows:

MR. SPEAKER—Your Committee of the Whole, to whom was referred H. B. No. 30, “An Act regulating the fees of officers, jurors and witnesses, and to repeal an act regulating the fees of officers, jurors and witnesses,” beg leave to report that they have had the same under consideration, and ask leave to sit again.

On motion of Mr. Comly, the House resolved itself into Committee of the Whole, for the further consideration of H. B. No. 30.

Mr. Boswell in the chair.

The House resumed. Mr. Speaker in the chair.

Mr. Boswell was granted time to make his report as chairman of the Committee of the Whole.

Mr. Tennant, chairman of the Committee on Enrollment, reported as follows :

That H. B. Nos. 15, 28, 32, and 36, were duly handed to the Governor for his signature, on December 3, 1867, at 11 o'clock, A. M.

Mr. Patton gave the following notice, to wit :

I will, on to-morrow or some future day, introduce a bill, “An Act to re-enact an act entitled an act to authorize Samuel Bresler and Robert Hedge, their associates, heirs and assigns, to construct and maintain a toll road from Virginia City, in Madison county, to Sterling, in Hot Spring district.”

The following communication, was received from His Excellency the Governor, through Mr. Cummings, his private secretary :

MR. SPEAKER—I am directed by the Governor to inform the House, that he has this day approved H. B. No. 15, “An Act requiring the clerks of the district courts to give bonds.”

Also, H. B. No. 36, “An Act to re-enact an act to authorize Constant Guyot, his heirs and assigns, to construct and maintain

a toll road from the Little Blackfoot river to the Ten Mile and Helena road."

Also, H. B. No. 28, "An Act to amend an act entitled an act concerning crimes and punishments."

Mr. Patton, chairman of the Committee of the Whole, reported as follows:

MR. SPEAKER—The Committee of the Whole, to whom was referred H. B. No. 25, report the same back to the House, and recommend that the bill pass, with the following amendments:

In section 7, between the words "entertainment" and "boarding houses," insert the words "restaurants, lodging houses."

In section 8, strike out "ten dollars" in fourth line, and substitute "eight dollars."

In section 9, add the following:

"*Provided*, That every peddler or hawker, traveling with a wagon or wagons, or pack animal or pack animals, not dealing in products of this Territory, shall pay a license, for the first wagon or pack animal, of fifteen dollars per month, and for every additional wagon or pack animal, ten dollars per month.

In line 15, section 10, strike out the words "half of."

In line 4, section 11, strike out "fifty cents," and substitute "one dollar."

In line 6, section 11, strike out "ten" and substitute "twenty-five."

In line 3, section 14, strike out "fifty" and substitute "seventy-five."

In line 3, section 17, between the words "dollars" and "shall," insert the words "or less."

In section 17, line 8, strike out "one hundred and twenty" and substitute "two hundred and fifty."

In line 9, section 17, strike out "two hundred" and substitute "five hundred."

After section 21, insert the following, as section 22:

"SEC. 22. Every person or company who shall bring or discharge from any steamer or other water craft a cargo of goods, wares or merchandise in any port or landing in this Territory, shall pay a license of fifty dollars for each cargo so discharged."

Change the numbers of section 22, and the following sections, so as to correspond with the above.

All of which is respectfully submitted.

Report received.

The following message was received from the Council, through Mr. Wade, their Chief Clerk:

That Mr. President introduced C. B. No. 48, entitled "An Act to authorize James M. Baily, his heirs and assigns, to construct and maintain a toll bridge on the Hell Gate river in Deer Lodge county."

That the resolution passed by the House, "Asking Congress for an appropriation to pay the debt incurred by the late military expedition against the Indians," has been indefinitely postponed.

That the House amendments to C. B. No. 46, entitled "An Act repealing sections 9 and 10 of an act concerning limitations," have been concurred in.

That C. B. No. 40, entitled "An Act concerning foreign corporations," has passed the Council.

Also, C. B. No. 48, entitled "An Act to authorize James M. Baily, his heirs and assigns, to construct and maintain a toll bridge on the Hell Gate river in Deer Lodge county," has passed the Council.

Also, C. B. No. 27, entitled "An Act to regulate the proceedings and define the jurisdiction of the probate courts of Montana Territory," has passed the Council.

That H. B. No. 37, entitled "An Act to re-enact an act entitled an act to incorporate the Gold Hill Mining and Tunneling Company of Montana Territory," has passed the Council.

That Mr. Cullen introduced C. B. No. 49, entitled "An Act relative to the pre-emption of town sites upon public lands, and the disposal of the trusts created thereby."

That Mr. President introduced C. B. No. 50, "An Act to define the boundary lines of Deer Lodge county."

C. B. No. 18, "An Act to provide for the formation of corporations for certain purposes." Read first and second time, and referred to the Committee on Incorporations.

C. B. No. 45, "An Act to amend an act entitled an act to establish a common school system for the Territory of Montana, approved February 7, 1867." Read first and second time, and referred to the Committee on Education.

Mr. Boswell, chairman of the Committee of the Whole, to whom was referred H. B. No. 30, reported as follows : §

MR. SPEAKER—Your Committee of the Whole, to whom was referred H. B. No. 30, "An Act regulating the fees of officers, jurors and witnesses, approved February 9th, 1865," respectfully report that they have had the same under consideration, and beg leave to report the same back to the House as amended, and recommend its passage.

Report received.

The amendments of the Committee of the Whole to H. B. No. 25 were concurred in.

Mr. Word offered the following amendment, which was adopted :

In section 6, line 18, strike out the word "fifteen" and insert "twenty."

In line 17, of same section, strike out the word "twenty" and insert the words "twenty-five."

The bill was then adopted as amended, and ordered engrossed for the third reading.

C. B. No. 48, "An Act to authorize James M. Baily, his heirs and assigns, to construct a bridge or ferry across the Hell Gate river in Deer Lodge county."

Read first and second time, and, on motion of Mr. Tennant, the bill was ordered to be returned to the Council with a copy of the Organic Act.

C. B. No. 40, "An Act concerning foreign corporations," was read first and second time, and referred to the Committee on Incorporations.

Mr. Word moved to adjourn to 7 o'clock, P. M.

Mr. Boswell moved to adjourn to 10 A. M., to-morrow.

Amendment adopted.

The House then adjourned.

THIRTY-FIRST DAY.

DECEMBER 4, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher, Simms, and Word.

Prayer by the chaplain.

Journal of yesterday read and approved.

Mr. Weston, chairman of the Committee on Incorporations, reported as follows:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred petition from citizens of the Yellowstone for a charter for a ferry on said river, having had the same under consideration, beg leave most respectfully to report as follows:

That in section one of the amendment to the Organic Act of the Territory of Montana, the Legislative Assembly is prohibited from granting private charters or special privileges, therefore your Committee report the said petition back to the House, and recommend that it be laid on the table.

Report received.

Mr. Anderson, chairman of the Committee on Territorial Affairs, reported as follows, on C. B. No. 10:

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred C. B. No. 10, “An Act declaring what shall constitute a lawful fence,” beg leave to report the same back to the House, and recommend that it pass as amended by your Committee.

Amend section one, as follows:

“SECTION 1. A fence shall be considered lawful when constructed of four or more strong poles or rails, the lower pole or rail to be not more than two feet from the ground.”

The above is intended to apply to what is known as “leaning fences.”

“Also, all board and rail fences well secured to good and substantial posts firmly set in the ground. Also, all worm fences and stone walls shall be considered lawful: *Provided*, That all of the above named fences shall not be less than four and a half feet high: *And provided, further*, That any portion of an enclosure, bordering on any stream more than four feet deep, swamp, bluff, ditch, or wall, which shall be as difficult for stock to pass as the fences described in this section, may be used as a lawful fence.”

Mr. Boswell introduced H. B. No. 39, “An Act to amend an act entitled an act to provide extra compensation to the officers of this Territory.”

Read first and second time, rules suspended, read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

Mr. Anderson introduced H. B. No. 40, “An Act supplementary to an act relative to notaries public.”

Read first and second time, and referred to Committee on Judiciary.

Mr. Tennant introduced H. J. R. No. 3, “Authorizing the Secretary to make corrections in orthography, etc.”

Read first and second time, rules suspended, read the third time, and passed by the following vote:

Ayes—Messrs. Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Anderson, Kennerly, and Simms.

The title was then agreed to.

C. J. M. No. 1, “Authorizing the people to call a convention to organize a State Constitution preparatory to entering the Union on an equality with the other States.”

Read first and second time, rules suspended, read the third time, and passed.

Ayes—Messrs. Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Word, and Mr. Speaker—9.

Nay—Mr. Weston.

Absent—Messrs. Anderson, Kennerly, and Simms.

The title was then agreed to.

C. B. No. 51, “An Act prohibiting the Territorial Auditor from issuing warrants to any person without express provisions of law.”

Read first and second time, rules suspended, the bill read the third time, and passed.

Ayes—Messrs. Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—9.

Nays—None.

Absent—Messrs. Anderson, Boswell, Simms, and Tennant.

The title was then agreed to.

The amendments to H. B. No. 35, made by the Council, were concurred in, and the bill ordered enrolled.

C. B. No. 27, “An Act to regulate the proceedings and defining the jurisdiction of probate courts of Montana Territory.”

Read first and second time, and referred to the Committee on Judiciary.

A call of the House was ordered.

On motion of Mr. Word, the call was suspended.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

That C. B. No. 30, "An Act to amend an act to provide increased compensation to officers in this Territory," has been indefinitely postponed.

That H. B. No. 39, "An Act to amend an act entitled an act to provide increased compensation to officers in this Territory," has passed the Council.

A communication was also received from Mr. Bagg, a member of the Council.

Mr. Word moved that the communication be rejected.

Motion lost.

The communication was then referred to the Committee on Education.

On motion of Mr. Tennant, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Mr. Tennant, chairman of the Committee on Education, reported as follows, to wit:

MR. SPEAKER—Your Committee on Education, to whom was referred Council Bill No. 45, being "An Act to amend an act entitled an act to establish a common school system for the Territory of Montana," beg leave to report the same back to the House, with a recommendation that the same be considered in Committee of the Whole, for the following reasons:

First—The bill requires amendment in some particulars, which your Committee believe could be done better in the Committee of the Whole, than otherwise.

Second—Your Committee on Education have some doubts regarding the practicability and usefulness of the phonetic system as adopted in section 8 of said bill, but feeling loth to condemn any improvement in the English language without free discussion, they have recommended that the same be considered in Committee of the Whole, and recommend that the advocates of the phonetic system in the Council, be respectfully invited to attend, and ventilate their ideas on the subject before the Committee of the Whole House.

All of which is respectfully submitted.

Report received, and the bill was made the special order for 6½ o'clock, this evening.

Mr. Word, chairman of the Committee on Judiciary, reported as follows, to wit :

MR. SPEAKER—Your Judiciary Committee, to whom was referred House Bill No. 40, being “An Act supplementary to an act in relation to notaries public,” beg leave to report the same back, and recommend that it be referred to the Committee of the Whole for consideration.

Report received.

Mr. Boswell, chairman of the Select Committee, to whom was referred C. B. No. 36, reported as follows, to wit :

MR. SPEAKER—Your Committee, to whom was referred C. B. No. 36, “An Act creating a body of special commissioners to build county buildings in Deer Lodge county,” would respectfully report that they have had the same under consideration, and report the same back to the House, and recommend its passage, with the following amendments :

Change the enacting clause and the first section, to read as follows, to wit :

“An act to authorize the county commissioners of Deer Lodge

county to levy a special tax for the construction of county buildings."

Amend section 1, by striking out the words "J. B. Dance, N. Connelly, and George B. Lucas," and insert "the county commissioners."

Report received.

Mr. Gallaher gave the following notice:

MR. SPEAKER—Notice is hereby given, that on to-morrow I will introduce a bill for "An Act to re-enact an act entitled an act to authorize Samuel Weir, and his associates, to construct and maintain a ferry over the Madison river in Gallatin county, Montana Territory."

Mr. Anderson introduced H. B. No. 41, "An Act prescribing the oath of office of territorial, county and precinct officers of the Territory of Montana."

Read first and second time, rules suspended, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Simms and Word.

The title was agreed to.

Mr. Word introduced H. B. No. 42, "An Act supplementary to and amendatory of an act defining the duties of Territorial Auditor and Territorial Treasurer of the Territory of Montana, approved December 3, 1867."

Read first and second time, and referred to the Committee on the Judiciary.

Mr. Boswell introduced H. B. No. 43, "An Act to amend an act to locate the seat of government of the Territory of Montana."

Read first time.

Mr. Word objected to the second reading.

On motion of Mr. Comly, the bill was read the second time.

Mr. Comly moved to read the bill the third time, and put it upon its final passage.

Mr. Gallaher moved that the further consideration of the bill be postponed until 7 P. M., to-morrow.

Motion lost.

Mr. Word moved that the bill be made the special order for 7 o'clock this P. M.

Motion lost.

Mr. Word moved to make the bill the special order for 10 A. M., to-morrow.

Motion lost.

On motion of Mr. Comly, the previous question was put, and carried.

On motion of Mr. Word, H. B. No. 43 was read for information.

A call of the House was ordered.

Mr. Weston absent.

Mr. Weston was reported in his seat.

On motion of Mr. Word, the call was suspended.

A message was received from the Council, through Mr. Wade, their Chief Clerk :

That H. J. R. No. 3 was indefinitely postponed.

Mr. Gallaher moved that the House take a recess until 7 o'clock, P. M.

Motion lost.

H. B. No. 43 was read third time, and put upon its final passage.

Mr. Edwards moved that the House take a recess until 6½ o'clock, P. M. Lost.

Mr. Word moved to indefinitely postpone the bill.

Motion lost.

Mr. Word moved a call of the House.

Roll called—Mr. Patton absent.

Mr. Patton reported in his seat.

On motion of Mr. Anderson, the call was suspended.

A communication was received from the Council, through Mr. Wade, their Chief Clerk:

That H. J. R. No. 2 had passed the Council with amendments.

That C. B. No. 53 had passed the Council.

That C. B. No. 42 had passed the Council.

H. B. No. 43 was then passed by the following vote:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Rhodes, Tennant, Weston, and Mr. Speaker—9.

Nays—Messrs. Gallaher, Patton, and Word—3.

Absent—Mr. Simms.

Mr. Word offered the following amendment to the title, which was lost:

“An Act to locate the seat of government at Deer Lodge city in Deer Lodge county.”

Title was then agreed to.

On motion of Mr. Word, C. B. No. 45 was made the special order for 6½ o'clock, P. M., on Thursday.

On motion of Mr. Word, the House adjourned.

THIRTY-SECOND DAY.

DECEMBER 5, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the Chaplain.

Journal of yesterday read and approved.

Mr. Patton introduced H. B. No. 44, "An Act to re-enact an act to authorize Samuel Bressler, Robert Hedge, their associates, heirs and assigns, to construct and maintain a toll road from Virginia City, in Madison county, to Sterling, in Hot Spring district.

Read first and second time, and referred to the Committee on Incorporations.

Mr. Gallaher introduced H. B. No. 45, "An Act to provide for laying out and establishing a territorial road from Bozeman City to Helena City."

Read first and second time, and referred to the Committee on Territorial Affairs.

Mr. Word reported as follows, as chairman of the Committee on Printing :

MR. SPEAKER—Your Committee on Printing, to whom was referred House Bill No. 29, being "An Act relating to the discovery and possessory right of all placer mines," beg leave to report the same back to the House correctly printed.

Report received.

Also, as follows:

MR. SPEAKER—Your Printing Committee, to whom was referred H. B. No. 34, being “An Act for the establishment of territorial hospitals,” beg leave to report the same back to the House, correctly printed.

Report received.

Call of the House ordered.

On motion of Mr. Word, the call of the House was suspended.

The following message was received from the Council:

That Mr. Cullen gave notice of the introduction of a bill entitled “An Act to amend an act entitled an act to regulate the proceedings in civil cases in the courts of justice of Montana Territory.”

Also, that C. B. No. 54 had passed the Council.

Mr. Patton introduced H. B. No. 46, “An Act providing for the collection of the revenue.”

Read first and second time, and referred to the Committee of Ways and Means.

Mr. Comly, chairman of the Committee on Engrossment, reported as follows:

MR. SPEAKER—Your Committee on Engrossment beg leave to report H. B. No. 25, “An Act to amend an act concerning licenses,” correctly engrossed.

Report received.

The following message was received from the Council, through their Chief Clerk, Mr. Wade:

That the House amendments to C. B. No. 53, “An Act to amend an act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana,” has been concurred in by the Council.

Mr. Word introduced the following resolution, which was adopted :

Resolved, That a Committee of three, two from the House, and one from the Council, be appointed, to make full and complete settlements with the Auditor and Treasurer of this Territory, and make report thereof to each House at as early a day as possible.

Mr. Kennerly introduced H. J. R. No. 4, "Relating to a proposed treaty with the Blackfeet Indians."

Read first and second time, rules suspended, read third time by title, and passed.

Ayes—Messrs. Anderson, Comly, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—9.

Nays—None.

Absent—Messrs. Boswell, Edwards, Gallaher, and Simms.

The title was then agreed to.

C. B. No. 52, "An Act authorizing county clerks of the several counties in this Territory to appoint deputies."

Read first and second time, rules suspended, read third time, and passed.

Ayes—Messrs. Anderson, Comly, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—9.

Nays—None.

Absent—Messrs. Boswell, Edwards, Gallaher, and Simms.

The title was then agreed to.

C. B. No. 54, "An Act to provide for the care and support of territorial prisoners confined in the county jails of Montana Territory."

Read first and second time, and referred to the Committee on the Judiciary.

C. B. No. 53, "An Act entitled an act to amend an act to regulate proceedings in civil cases in the courts of justice in the Territory of Montana."

Read first and second time, and referred to the Committee on Judiciary.

H. J. R. No. 2 was taken up, and the amendments of the Council concurred in.

On motion of Mr. Patton, the House took a recess until two o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher and Simms.

Mr. Tenant, chairman of the Committee on Enrollment, reported that he had presented H. B. No. 39 to the Governor for his approval, at 4 o'clock P. M., December 4, 1867.

Mr. Weston, chairman of the Committee on Incorporations, to whom was referred H. B. No. 33, reported as follows:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 33, “An Act to re-enact an act to incorporate the Black Tail Deer and Helena Wagon Road Company,” having had the same under consideration, report it back to the House, with the recommendation that it be considered in Committee of the Whole.

Also, as follows, upon C. B. No. 40:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 40, entitled “An Act concerning foreign

corporations," having considered the same, beg leave most respectfully to report said bill back to the House, and recommend that it pass without amendment.

Reports received.

Mr. Word, chairman of the Committee on Judiciary, reported as follows :

MR. SPEAKER—Your Judiciary Committee, to whom was referred Council Bill No. 4, being "An Act to regulate proceedings in attachments in civil cases," beg leave to report the same back to the House, with the recommendation that it pass, with the following section added thereto :

"SECTION 27. All acts and parts of acts conflicting with this act be, and the same are, hereby repealed."

That section 27 of said bill be changed to section 28.

Report received.

Also, as follows :

MR. SPEAKER—Your Judiciary Committee, to whom was referred Council Bill No. 53, being "An Act entitled an act to amend an act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana," beg leave to report the same back to the House, with the recommendation that it pass, with the following amendments :

Add the following sections to said bill :

"SEC. 2. That the provisions of this act shall in all respects be applicable to criminal cases in the courts of this Territory : *Provided*, That in no case, civil or criminal, shall there be more than two changes of venue granted.

"SEC. 3. All acts and parts of acts conflicting herewith, are hereby repealed.

"SEC. 4. This act to take effect and be in force from and after its passage and approval."

Report received.

Mr. Word also reported as follows:

MR. SPEAKER—Your Judiciary Committee, to whom was referred Council Bill No. 54, being “An Act to provide for the care and support of territorial prisoners confined in the county jails of Montana Territory,” beg leave to report the same back to the House, with the recommendation that it pass.

Report received.

Mr. Anderson, chairman of the Committee on Territorial Affairs, reported as follows:

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred C. J. R. No. 4, beg leave to report the same back to the House, and recommend that it do pass.

Report received.

Mr. Word, chairman of the Committee on Judiciary, reported a follows :

MR. SPEAKER—Your Judiciary Committee, to whom was referred H. B. No. 42, being “An Act supplementary to and amendatory of an act defining the duties of Territorial Auditor and Territorial Treasurer of the Territory of Montana,” beg leave to report the same back to the House, with the recommendation that it pass.

Report received.

C. B. No. 53 was taken up ; “An Act entitled an act to amend an act to regulate proceedings in civil cases in the courts of justice in the Territory of Montana.”

On motion of Mr. Comly, the amendments offered by the Committee on Judiciary were adopted.

On motion of Mr. Word, the amendment to section 2 was stricken out.

The bill was then read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Kennerly, and Simms.

The title was then agreed to.

The following communication was received from the Council, through their Chief Clerk, Mr. Wade:

That Mr. Rand introduced C. B. No. 54, entitled “An Act to provide for the payment of expenses incurred in keeping territorial prisoners, and the manner in which the same shall be paid.”

H. B. No. 25, “An Act to amend an act concerning licenses,” was read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

H. B. No. 30 was taken up, and the amendments offered by the Committee of the Whole, on motion of Mr. Comly, were adopted.

On motion of Mr. Comly, the following amendment was adopted:

In 22nd line of sheriff’s fees, strike out the words “and probate.”

The bill was then adopted, and ordered engrossed as amended for third reading.

On motion of Mr. Word, H. B. No. 29 was made the special order for 10 o’clock, A. M., on Friday, Dec. 6, 1867.

Mr. Anderson gave the following notice:

I hereby give notice that I will, on to-morrow, introduce "An Act to amend an act entitled an act providing increased compensation to officers in this Territory, approved January 24th, 1865."

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

That C. B. No. 55, C. J. R. No. 4, C. B. No. 56, had passed the Council, and that H. B. No. 41 had passed the Council, with amendments.

C. B. No. 55, "An Act to authorize the citizens of Jefferson county to change the county seat of said county," was read the first and second time.

On motion of Mr. Boswell, the rules were suspended, the bill was read the third time by its title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

C. J. R. No. 4, "Asking an extra session," was read first and second time, and referred to the Committee on Territorial Affairs.

C. B. No. 56, "An Act in relation to the election of county officers for the several counties of the Territory of Montana," was read first and second time, and referred to the Committee on Elections.

H. B. No. 41, with the amendments of the Council, were referred to a Select Committee of three, consisting of Messrs. Word, Anderson, and Rhodes.

C. B. No. 40, "An Act concerning foreign corporations," was, on motion of Mr. Anderson, put upon its final passage, and read the third time by its title, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Kennerly, Patton, Rhodes, Weston, and Mr. Speaker—8.

Nays—Messrs. Boswell and Word—2.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

C. B. No. 54, “An Act to provide for the care and support of territorial prisoners confined in the county jails of Montana Territory,” was put upon its final passage, read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Word, and Mr. Speaker—9.

Nay—Mr. Weston.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

C. B. No. 48, “An Act to re-enact an act to authorize James M. Baily, his heirs and assigns, to construct and maintain a bridge on the Hell Gate river, in Deer Lodge county,” was read the second time, rules suspended, read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, and Mr. Speaker—8.

Nays—Messrs. Weston and Word—2.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

Amendments of the Select Committee to C. B. No. 36, concurred in.

On motion of Mr. Boswell, the bill was then put upon its final passage, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

Amendments to C. B. No. 4, “An Act to regulate proceedings in attachment in civil cases,” were adopted, bill put upon its final passage, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

Mr. Anderson moved that C. B. No. 10, with amendments, be laid on the table.

Motion lost.

On motion of Mr. Weston, the amendments reported by the Committee on Territorial Affairs were adopted.

On motion of Mr. Comly, the amendments were considered engrossed, and the bill put upon its final passage, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Patton, Rhodes, Weston, Word, and Mr. Speaker—9.

Nay—Mr. Kennerly.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

H. B. No. 33, “An Act to re-enact an act to incorporate the Black Tail Deer and Helena Wagon Road Company,” was read the third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—9.

Nay—Mr. Boswell.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

H. B. No. 34 was, on motion, referred to the Committee on Territorial Affairs.

H. B. No. 44, “An Act to re-enact an act to authorize Samuel Bressler, Robert Hedge, their heirs and assigns, to construct and maintain a toll road from Virginia City, in Madison county, to Sterling, in Hot Spring district.”

Considered engrossed, and put upon its final passage.

Read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Kennerly, Patton, Rhodes, Weston, and Mr. Speaker—8.

Nays—Messrs. Edwards and Word—2.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

H. B. No. 42 was referred to a Select Committee of three, consisting of Messrs. Word, Anderson, and Rhodes.

Mr. Anderson made the following report:

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred H. B. No. 45, “An Act to provide for the laying out and establishing a territorial road from Bozeman City to Helena,” beg leave to report that the said bill proposes to establish a territorial road from Bozeman City to Helena over a country nearly level and requiring no improvement; and further, that the said bill provides for an appropriation of one thousand dollars out of the treasury, without specifying to what use said money is to be appropriated. There are other provisions in the bill no less objectionable than those mentioned, and in consideration of these facts, your Committee recommend that the bill be indefinitely postponed.

Report received.

H. B. No. 45 was, on motion, made the special order for Friday, the 6th inst.

C. J. R. No. 4 was reported back from the Committee on Territorial Affairs, with the recommendation that it pass.

Report concurred in.

C. J. R. No. 4 was put upon its final passage.

Read the third time, and passed.

Ayes—Messrs. Boswell, Comly, Patton, Rhodes, Weston, and Mr. Speaker—6.

Nays—Messrs. Anderson, Edwards, Kennerly, and Word—4.

Absent—Messrs. Gallaher, Simms, and Tennant.

The title was then agreed to.

On motion, the House took a recess until 6½ o'clock, P. M.

EVENING SESSION.

The House resumed its session, at 6½ o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

The House then resolved itself into Committee of the Whole, to consider C. B. No. 55. Mr. Edwards in the chair.

The House resumed. Mr. Speaker in the chair.

The vote by which H. B. No. 29 was referred to the Committee of the Whole, and made the special order for 10 o'clock, A. M., on Friday, was reconsidered and referred to a Select Committee of three, consisting of Messrs. Comly, Edwards, and Weston.

Mr. Tennant, chairman of the Committee on Enrollment, reported as follows:

That House Bill No. 43 was correctly enrolled.

H. B. No. 45 was then, on motion, referred to the Committee on Territorial Affairs.

On motion of Mr. Tennant, the House adjourned.

THIRTY-THIRD DAY.

DECEMBER 6, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

Mr. Rhodes reported as follows:

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred H. B. No. 46, have had the same under consideration, and would respectfully beg leave to recommend that said bill be referred to Committee of the Whole.

Report received.

Mr. Anderson, chairman of Committee on Territorial Affairs, reported as follows:

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred H. B. No. 34, “An Act for the establishment of territorial hospitals,” beg leave to report, that they have had the same under consideration, and recommend that it pass, without amendment.

Report received.

Also, as follows:

MR. SPEAKER—Your Committee on Territorial Affairs, to whom was referred H. B. No. 45, beg leave to report the same back to the House, with the recommendation that it be considered in the Committee of the Whole.

Report received.

H. B. No. 34 was taken up, and, on motion of Mr. Word, the word “ten,” in section 1, was stricken out, and the word “five” inserted.

On motion of Mr. Comly, the rules were suspended, the bill was considered engrossed, and put upon its final passage.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That the House amendments to C. B. Nos. 10 and 36 were concurred in by the Council.

A call of the House was ordered.

Roll called—absent, Messrs. Edwards, Tennant, and Simms.

Sergeant-at-Arms was directed to bring in the absentees.

Messrs. Tennant and Edwards were reported in their seats.

On motion of Mr. Comly, the further call of the House was dispensed with.

On motion of Mr. Comly, the vote by which H. B. No. 34 was put upon its final passage, was reconsidered.

On motion of Mr. Comly, H. B. No. 34 was then referred to a Select Committee of five, consisting of Messrs. Rhodes, Boswell, Word, Gallaher, and Weston.

Mr. Gallaher moved to suspend the rules, and to consider H. B. No. 45 engrossed, and put upon its final passage.

Motion lost.

The following message was received from the Council, through Mr. Wade, their Chief Clerk :

That C. B. No. 50 and H. J. R. No. 4 had passed the Council.

Also, that Mr. Rand had introduced C. B. No. 57, "An Act entitled an act to amend an act to regulate proceedings in civil cases in the courts of justice of Montana Territory."

On motion of Mr. Tennant, H. B. No. 45 was referred to a Select Committee of three. Messrs. Tennant, Word, and Gallagher were appointed said Committee.

On motion of Mr. Anderson, H. B. No. 46 was made the special order for 2½ o'clock, P. M., and referred to the Committee of the Whole.

Mr. Tennant, chairman of the Committee on Enrollment, reported House Joint Resolution No. 2 correctly enrolled.

Also, that House Bills Nos. 24, 35, 37, 38, and 43, were duly handed to the Governor for his approval at 11 o'clock, A. M., December 6, 1867.

Mr. Boswell moved to take a recess until 2 P. M.

Mr. Anderson moved to amend by inserting "1½ P. M." Carried.

The House then took a recess until 1½ o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 1½ o'clock, P. M. Mr. Speaker in the chair.

Roll called—Mr. Simms absent

Mr. Comly, chairman of the Select Committee, to whom was referred H. B. No. 29, reported as follows:

MR. SPEAKER—Your Committee (Select), to whom was referred H. B. No. 29, “An Act relating to the discovery and possessory right of all placer mines,” respectfully report the same back, and recommend its passage, with the following amendments:

First. To section 5 add as follows:

“Which shall be determined by two-thirds of the claim holders of the district.”

Second. Amend section 10 by striking out all after the word “laws,” in the fourth line of printed copy, and substitute as follows:

“Shall not conflict with vested rights under authority of this act acquired prior to said meeting.”

Third. Strike out section 11, and make section 12 section 11.

All of which is respectfully submitted.

Report received.

Mr. Word introduced H. B. No. 47, “An Act to amend an act entitled an act to regulate proceedings in civil cases in the courts of justice of Montana Territory.”

Read first and second time, and referred to the Judiciary Committee.

Mr. Gallaher introduced H. B. No. 48, “An Act to dissolve the bonds of matrimony existing between Geo. W. Hacker and Mary J. Hacker.”

Read first and second time.

On motion of Mr. Edwards, the rules were suspended, the bill considered engrossed, and put upon its final passage.

Read the third time, and lost by the following vote :

Ayes—Messrs. Edwards, and Gallaher—2.

Nays—Messrs. Anderson, Boswell, Comly, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—9.

Absent—Messrs. Simms and Tennant.

H. J. R. No. 4 was ordered enrolled.

C. B. No. 50, “An Act to define the boundary lines of Deer Lodge, Beaver Head and Madison counties. Read first and second time, rules suspended, and the bill put upon its final passage.

Mr. Comly, by consent of the House, offered the following amendment, which was adopted :

In section 1, line 54, strike out the words “western boundary,” and insert the word “boundaries.”

The bill was adopted as amended, read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Simms and Tennant.

The title was then agreed to.

On motion of Mr. Anderson, the House resolved itself into Committee of the Whole, to consider House Bill No. 46. Mr. Anderson in the chair.

House resumed. Mr. Speaker in the chair.

Mr. Edwards, chairman of the Committee of the Whole, to whom was referred H. B. No. 45, reported as follows :

MR. SPEAKER—Your Committee of the Whole, to whom was referred C. B. No. 45, beg leave to report the same back, with the recommendation that the same do pass.

Report received.

Mr. Anderson, chairman of the Committee of the Whole, reported as follows:

MR. SPEAKER—The Committee of the Whole have had under consideration H. B. No. 46, and beg leave to report the same back to the House, with the recommendation that it be printed.

Report received.

H. B. No. 46. Ordered printed.

C. B. No. 45 was read for information.

Mr. Word offered the following amendment, which was adopted :

Add the following section :

“SECTION 8. That the trustees of each school district in each county be and are hereby authorized to use the school moneys under their control so far as the same may be necessary for the purpose of procuring fuel for the use of the schools in their respective districts, as also for the purpose of repairing any building that may be the property of the school district of which they are trustees.”

Mr. Weston offered the following amendment :

Amend by striking out section 8.

Amendment adopted.

The bill was then adopted as amended, the amendments engrossed, the bill read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Gallaher, Kennerly, Patton, Rhodes, and Mr. Speaker—8.

Nays—Messrs. Weston, and Word—2.

Absent—Messrs. Edwards, Simms, and Tennant.

The title was then agreed to.

Mr. Weston in the chair.

C. B. No. 49, “An Act relative to the pre-emption of town sites upon public lands, and the disposal of the trusts created thereby.” Read first and second time, and referred to the Committee on Towns and Counties.

The amendments offered by the Select Committee, to whom H. B. No. 29 was referred, were adopted.

The bill was then adopted as amended, and ordered engrossed for third reading.

Mr. Patton gave the following notice:

MR. SPEAKER—I will, on to-morrow or some future day, introduce a bill for “An Act to re-enact an act entitled an act to authorize L. H. Warren, Henry Gassett, and James Sinclair, to construct and maintain a ferry across Big Horn river.”

Also, “An Act to re-enact an act entitled an act to authorize Henry Gassett and James Sinclair to construct and maintain a ferry or bridge across the Jefferson river, passed and approved by the third session of the Legislative Assembly of the Territory of Montana.”

Also, “An Act to re-enact an act entitled an act to incorporate the Madison Bridge Company, passed and approved at the third session of the Legislative Assembly of the Territory of Montana.”

The following communication was received from the Governor, through Mr. Cummings, his private secretary:

MR. SPEAKER—I am instructed by the Governor to inform the House that he has this day approved—

H. B. No. 38, “An Act supplementary to an act for the protection of roads.”

Also, H. B. No. 37, “An Act to re-enact an act entitled an act to incorporate the Gold Hill Mining and Tunneling Company of Montana, approved April 2nd, 1866.”

Also, H. B. No. 24, “An Act to amend an act entitled an act securing liens to mechanics and others, approved December 30, 1864.”

Also, H. B. No. 39, “An Act to amend an act entitled an act to provide increased compensation to officers in this Territory.”

Also, H. B. No. 32, “An Act to authorize Thomas A. Holmes and Luther M. Brown and their associates, heirs and assigns, to establish a ferry across the Missouri river, between the counties of Edgerton and Meagher.”

Mr. Boswell introduced H. B. No. 49, "An Act entitled an act defining the duties of assessors of the several counties of Montana Territory."

Read first and second time, and referred to the Committee of Ways and Means.

On motion of Mr. Edwards, the House went into Committee of the Whole, to consider H. B. No. 18. Mr. Edwards in the chair.

The House resumed its session. Mr. Speaker in the chair.

Mr. Edwards was granted until 11 o'clock, A. M., to-morrow, to report, as chairman of the Committee of the Whole.

The following message was received from the Council, through Mr. Wade, their Chief Clerk:

That House resolution, appointing a Committee of three, two from the House and one from the Council, to settle with the Territorial Auditor and Territorial Treasurer, had passed the Council.

On motion of Mr. Boswell, the House adjourned.

THIRTY-FOURTH DAY.

DECEMBER 7, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Weston, chairman of Committee on Incorporations, reported as follows :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 18, “An Act to provide for the formation of corporations for certain purposes,” would respectfully report that they have had the same under consideration, and believe the provisions of the bill to be in the main good, but your Committee believe that the amount of mining ground to be held by corporations should be restricted, in order that no wealthy company may buy and control our immense and rich mineral lands.

Your Committee also believe that this Legislature has not the power to pass any general incorporation act granting to any parties, who may avail themselves of the privileges of the same, any special privileges whatever, which the act as it stands does grant when it creates toll roads, ferries and bridges, giving to the parties building the aforesaid, the special privilege of collecting toll and the exclusive right to the lands upon which the same may be constructed.

For the above reasons, and others, your Committee recommend that the bill pass, with the following amendments:

1. In section 1, strike out in sixth line, the words "wagon roads."
2. In section 1, strike out after the word "tunnels" in seventh line, the following words: "or carry on any branch of business designed to aid in the industrial or productive interests of the country."
3. In section 5, after the word "company" in sixth line, strike out the following: "and a majority of whom shall be residents of this Territory."
4. Amend sec. 23 by striking out all after the word "changed" in said section, and substitute the following: "and a unanimous vote of all the stock represented at said meeting, provided such vote shall not be less than two-thirds of all the capital stock of said company, shall be necessary to an increase or diminution of the amount of its capital stock, or the extension or change of its business as aforesaid, or to enable a company to avail itself of the provisions of this act."
- 5.* In section 2, twenty-fourth line, strike out the word "pre-emption."
6. Add to section 3, the following: "*Provided*, That no incorporated company created by authority of this act shall ever at any one time, hold or own more than one hundred and sixty acres of land, and ten thousand lineal feet of quartz lodes, and no company under this act shall be capable of holding or owning any placer mines."
7. Strike out all of sections 28, 29 and 30.
8. Strike out all of sections 36, 37, 38 and 39.
9. In section 43, line 3, strike out "road."
10. In section 43, line 4, strike out "bridge" and "ferry."
11. In section 43, line 7, strike out "road."
12. In section 43, line 8, strike out "bridge" and "ferry."
13. In section 43, after the word "years" in 33rd line, strike out the remainder of the section.
14. Strike out, in section 44, the 13th, 14th, 15th, 16th and 17th lines.

15. Strike out, in section 44, the proviso, commencing with the 31st line:

16. In section 46, 3rd line, strike out "road," "bridge," and in the 4th line, the word "ferry."

17. In section 49, 8th line, strike out "roads."

In section 49, 6th page, 6th line, strike out the words "in fee."

18. In section 49, 6th page, 15th line, strike out the word "road."

All of which is respectfully submitted.

Report received.

Mr. Tennant, chairman Committee on Enrollment, reported House Joint Resolution correctly enrolled.

Mr. Edwards, chairman Committee of the Whole, reported as follows:

MR. SPEAKER—Your Committee of the Whole, on H. B. No. 18, entitled "An Act for the relief of E. Lovelock and W. K. Roberts," beg leave to report the same back to the House, with the recommendation that a select committee be appointed to examine the documentary accounts accompanying the same.

Report received.

Mr. Word, chairman of the Select Committee, to whom was referred H. B. Nos. 41 and 42, was granted further time to report.

Mr. Comly, chairman of the Committee on Engrossment, reported as follows, to wit:

MR. SPEAKER—Your Committee on Engrossment, to whom was referred H. B. No. 29 and H. B. No. 40, respectfully report the same properly engrossed.

Report received.

Mr. Word, chairman of the Committee on the Judiciary, reported as follows, to wit:

MR. SPEAKER—Your Judiciary Committee, to whom was referred House Bill No. 47, beg leave to report the same back to the House, with the recommendation that it pass, with the following amendment:

Add section 27: “No person shall be arrested in a civil action, except as prescribed by this act.”

Report received.

Mr. Kennerly introduced H. B. No. 50, “An Act to define the boundary lines of Chouteau county, and locate the county seat thereof.”

Read first and second time, and referred to a Select Committee of three.

Messrs. Kennerly, Anderson, and Rhodes, were appointed said committee.

Mr. Anderson introduced H. B. No. 51, “An Act entitled an act to amend an act to regulate proceedings in civil cases in the courts of justice of Montana Territory.”

Read first and second time, and referred to the Committee on Judiciary.

Mr. Gallaher introduced H. B. No. 52, “An Act to re-enact an act authorizing Samuel Weir and his associates to construct a bridge or ferry across the Madison river, near the mouth thereof.”

Read first and second time, and on motion of Mr. Gallaher, the rules were suspended, and the bill considered engrossed.

Read third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—10.

Nays—Messrs. Boswell and Word—2.

Absent—Mr. Simms.

The title was then agreed to.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

That Mr. Davis introduced C. B. No. 59, entitled “An Act concerning proceedings in courts of justice.”

That the amendments of the House to C. B. No. 50, "An Act to define the boundary lines of Deer Lodge, Beaver Head and Madison counties," have been concurred in.

C. B. No. 58, "An Act for the better observance of the Lord's day," was taken up, read first and second time, rules suspended.

Read third time, and passed by the following vote:

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11

Nay—Mr. Boswell.

Absent—Mr. Simms.

Title agreed to.

A call of the House ordered.

Roll called—Mr. Boswell absent.

Mr. Boswell in his seat.

On motion of Mr. Anderson, the further call of the House was suspended.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That the Council refused to concur in the House amendments to C. B. No. 45.

Mr. Word moved that the House recede from their amendments to C. B. No. 45.

Motion lost.

C. B. No. 18, "An Act concerning corporations," was referred to the Committee of the Whole, and made the special order for 2½ o'clock, this P. M.

On motion of Mr. Weston, H. B. No. 18, "An Act for the relief of Ed. Lovelock and W. K. Roberts," was referred to a Select Committee of three.

Messrs. Weston and Comly were appointed, and on motion of Mr. Weston, the Speaker was added to the Committee.

On motion of Mr. Word, the amendments to H. B. No. 47, offered by the Judiciary Committee, were adopted.

On motion of Mr. Word, H. B. No. 47 was considered engrossed, the rules suspended, read third time by the title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Gallaher, Simms, and Weston.

On motion of Mr. Word, the title was amended so as to read: “An Act providing for arrest and bail in civil cases.”

H. B. No. 29, “An Act relating to the discovery and possessory right of placer mines,” was read the third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—9.

Nays—Messrs. Boswell and Word—2.

Absent—Messrs. Gallaher and Simms.

The title was then agreed to.

H. B. No. 40, “An Act supplementary to an act relating to notaries public,” was read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Rhodes, Weston, Word, and Mr. Speaker—6.

Nays—Messrs. Comly, Edwards, and Patton—3.

Absent—Messrs. Gallaher, Kennerly, Simms, and Tennant.

The title was then agreed to.

Mr. Word gave notice that he would this afternoon move to reconsider the vote by which House Bill No. 40 was passed.

On motion of Mr. Weston, the following resolution was adopted:

Resolved, That the House insists on the House amendment to Council Bill No. 45, and requests a conference upon matters of difference upon said bill, and that a committee of two from this House be appointed, to confer with a like committee from the

Council upon the subject of disagreement between the two Houses.

Messrs. Weston and Tennant were appointed said committee.

On motion of Mr. Weston, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher, Patton, and Simms.

Mr. Kennerly, chairman of the Committee on Elections, reported as follows, to wit:

MR. SPEAKER—Your Committee on Elections, to whom was referred C. B. No. 56, being “An Act in relation to the election of county officers within the several counties of the Territory of Montana,” beg leave to report that they have had the same under consideration, and your Committee are of the opinion that the many changes made in the boundary lines of the different counties of this Territory, call for a law of this kind, to secure justice to different officers elected at a general election held on the first Monday of September, 1867.

Therefore your Committee most respectfully recommend that the bill pass without amendment.

Report received.

Mr. Comly reported as follows, as chairman of the Committee on Engrossment:

MR. SPEAKER—Your Committee on Engrossment beg leave to report H. B. No. 30 correctly engrossed.

Report received.

Mr. Tennant, chairman of the Committee on Enrollment, reported that he had handed House Joint Resolution No. 4 to His Excellency the Governor for his approval at 10 o'clock, A. M., December 7th, 1867.

Mr. Word, chairman of the Committee on Judiciary, made the following report, to wit:

MR. SPEAKER—Your Judiciary Committee, to whom was referred H. B. No. 51, beg leave to report the same back to the House, with the recommendation that it pass.

Report received.

Mr. Edwards, chairman of the Committee on Mines and Minerals, made the following report:

MR. SPEAKER—Your Committee on Mines and Minerals, to whom was referred that portion of the Governor's message relating to mines and minerals, respectfully beg leave to report that inasmuch as Prof. A. K. Eaton and Prof. Swallow have furnished to His Excellency the Governor such reports, which are published in full with the message, and inasmuch as the said reports contain valuable information to the Territory, your Committee respectfully decline to report further upon a subject already exhausted by reports of such beauty, truth and accuracy.

Report received.

Mr. Comly, chairman of the Select Committee, to whom H. B. No. 18 was referred, reported as follows:

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 18, being "An Act for the relief of Ed. Lovelock and W. K. Roberts," have examined papers and documents accompanying the same, and find that W. K. Roberts has actually expended about five hundred dollars, and that Ed. Lovelock has actually expended about two thousand five hundred dollars, and your Committee believe that it is but just and equitable that the above named sums should be appropriated for their relief, and for that purpose offer the accompanying as a substitute for the bill.

Report received.

Mr. Tennant, chairman of the Select Committee, to whom was referred H. B. No. 45, reported as follows:

MR. SPEAKER—Your Special Committee, to whom was referred H. B. No. 45, “An Act for the laying out and establishing a territorial road from Bozeman City to Helena City, have had the same under consideration, and report the same back to the House, and recommend that the bill pass, with the following amendment, to wit:

Amend section 3 in fourth line, by striking out “one thousand” and inserting the words “five hundred.”

Report received.

Mr. Word, chairman of Select Committee, to whom was referred House Bills Nos. 41 and 42, made the following minority report:

MR. SPEAKER—Your chairman of Select Committee, to whom was referred House Bill No. 42, beg leave to report the same back to the House, with the recommendation that it pass without amendment.

Your chairman finds on examination that the first section of this bill requires the Territorial Auditor and Territorial Treasurer to file with the Secretary of the Territory an official oath before entering upon the duties of his office—an essential requirement, which is wanting in an act heretofore passed by this Legislature defining the duties of Auditor and Treasurer.

The second section requires the Auditor and Treasurer to make an annual settlement of all their accounts and transactions, with the Legislature or any committee appointed by it for that purpose, which also seems to have been omitted from the act heretofore passed.

This section also suggests an amendment to section 14 of an act defining the duties of Territorial Auditor and Treasurer of this Territory.

Section 14 of the Act already passed, is as follows:

“It shall be the duty of the Territorial Treasurer to keep a book in which he shall enter all territorial warrants presented for payment which shall bear date subsequent to the thirty-first day of October, A. D. 1867, giving the name of the owner, the

number and amount of the warrants, and they shall be paid in the order in which they are presented," etc.

House Bill No. 42 proposes to amend said bill by striking out the words, "which shall bear date subsequent to the thirty-first day of October, A. D. 1867," the effect of which will be to leave all holders of warrants, without regard to their date, upon the same footing.

It is the opinion of the undersigned, that it is but fair and just to place all holders of territorial warrants upon an equality, and if preference at all be given by the Territory to any of its creditors over the rest, that preference should be extended to those who hold the oldest territorial obligations rather than to those who have, since the 31st of October, 1867, rendered services to the Territory.

The funding law that has been created by this Legislature authorizes the holders of warrants "issued prior to the 31st day of October, 1867," to have the same converted into bonds prior to June 1st, 1868, payable five years after date at the pleasure of the Territory, after two years; and to provide for the redemption of such bonds and payment of the interest that may annually accrue thereon, twenty-five per cent. of all moneys paid into the territorial treasury is appropriated by said act.

That leaves seventy-five per cent. of all moneys paid into the treasury to be applied to the payment of warrants issued since the 31st day of October, 1867, in the order in which they are registered. The effect of the two laws is to postpone the payment of old warrants and force the holders of the same to bond them or else wait until some future Legislature makes some provision for their redemption.

All taxes and licenses must now be paid in money unless the warrants be issued to the tax payer himself. Such is the law now in force as enacted by this Legislature.

A holder of warrants amounting to thousands of dollars issued prior to 31st of October, 1867, who may not see proper to convert them into bonds and wait five years for his money, cannot use them to pay taxes, and is forced to hold them subject to some future provision of the Legislature; while the members and attaches of this Legislature whose warrants for their services all

date subsequently to the 31st day of October, 1867, can register the same and have the benefit of three-fourths of all the money paid into the territorial treasury applied to the payment of the same.

To say nothing of the grave legal questions that are likely to arise under the statute forbidding the tax payer from using territorial warrants to discharge indebtedness to the Territory, and to say nothing of the still graver questions that will surely arise under the funding and registry law, whereby the Territory extends a preference to her recent creditors, to the exclusion of creditors who have been holders of territorial indebtedness for several years, the laws, as they now stand, leave the Legislature in the position to incur the imputation of having legislated with an eye to their own individual interest and to the exclusion of others.

Your chairman can see no reason why, if a registry law must exist, (which is itself of doubtful legality) all holders of warrants shall not have the privilege of electing whether to convert them into bonds or have them registered or paid in the order of registration. Such a law would give no preference, but would place all on an equality, and such is the object of the amendment proposed by House Bill No. 42.

The chairman of Select Committee would therefore recommend that H. B. No. 42 pass, and become a law.

That H. B. No. 41, as amended by the Council, be indefinitely postponed, for the reason that the provisions of the same are fully covered by section 96 of the Criminal Practice Act, now in force upon the statute books.

S. WORD,
Chairman Select Committee.

Report received.

Messrs. Anderson and Rhodes, two of the Select Committee to whom House Bills Nos. 41 and 42 were referred, reported as follows:

MR. SPEAKER—Your Select Committee of three, to whom was referred House Bills No. 41 and 42, beg leave to report that No. 41 was passed by this House and returned by the Council, with

amendments, which amendments a majority of your Committee ask this House to concur in ; and upon H. B. No. 42, your Committee respectfully represent, that a section in said bill conflicts with the laws passed by this session, defining the duties of Auditor and Treasurer, and the funding act, giving the Treasurer authority to register all warrants ; while said laws passed make a distinction in warrants issued prior to November 1st, and those issued subsequent to that date, requiring one to be funded and the other to be registered.

The other provisions of this bill are covered by bill No. 41. In consideration of these facts, a majority of your Committee recommend that H. B. No. 42 be indefinitely postponed.

J. M. ANDERSON.

J. W. RHODES.

Majority Report.

Report received.

Mr. Kennerly, chairman of the Select Committee on H. B. No. 50, reported as follows :

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 50, being “ An Act to define the boundary lines of Chouteau county,” beg leave to report that they have had the same under consideration, and find that said bill does not conflict with the boundary lines of any other county or counties.

We therefore recommend that it do pass without amendment.

Report received.

Mr. Weston introduced H. B. No. 53, “ An Act supplementary to an act entitled an act regulating the holding of elections in Montana Territory.”

Read first and second time, and on motion of Mr. Tennant, the bill was considered engrossed, and read the third time, and passed.

Mr. Anderson moved to amend, by referring to the Committee on Elections.

On motion of Mr. Word, the amendment was laid on the table.

The original motion was then passed.

Ayes—Messrs. Edwards, Gallaher, Patton, Tennant, Weston, Word, and Mr. Speaker—7.

Nays—Messrs. Anderson, Comly, Kennerly, and Rhodes—4.

Excused—Mr. Boswell.

Absent—Mr. Simms.

Title agreed to.

A call of the House was ordered.

The further call of the House was dispensed with.

The hour having arrived for which C. B. No. 18 was made the special order, the House resolved itself into Committee of the Whole, to consider said bill.

Mr. Comly in the chair.

The House resumed. Mr. Speaker in the chair.

The following message was received from the Council, through Mr. Wade, their Chief Clerk:

That the Council ask the House to recede from their amendments to C. B. No. 48.

Mr. Comly, chairman of Committee of the Whole, on C. B. No. 18, reported as follows:

MR. SPEAKER—Your Committee report progress, and ask leave to sit again.

The report of the Select Committee, to whom H. B. No. 18 was referred, was concurred in.

Mr. Word offered the following amendment to section one, of the substitute:

“SEC. 1. There is hereby appropriated out of any moneys in the territorial treasury not otherwise appropriated, the sum of three thousand dollars, for the relief of Edward Lovelock and

W. K. Roberts, on account of moneys expended by them in the Cave Gulch murder case.

"Provided, That the county commissioners of Meagher county be and are hereby constituted a commission to hear proofs and evidences of amounts actually expended by said Roberts and Lovelock, and audit the amounts which shall by them be so found expended, and such amounts and none other shall be paid out of the fund hereby appropriated."

On motion of Mr. Weston, the amendment was laid on the table.

Substitute for H. B. No. 18 was read first and second time, rules suspended, and considered engrossed.

Read third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—9.

Nays—Messrs. Kennerly and Word—2.

Absent—Messrs. Boswell and Simms.

Mr. Word offered to amend the title of the bill, as follows:

"An Act for the relief of Meagher county."

Amendment lost.

The title was then agreed to.

On motion of Mr. Weston, the report of the majority committee on H. B. No. 41 was concurred in.

On motion of Mr. Weston, H. B. No. 42 was indefinitely postponed.

Mr. Word moved to adjourn.

Motion lost.

H. B. No. 30, "An Act regulating the fees of officers, jurors and witnesses, and to repeal an act entitled an act regulating the fees of officers, jurors and witnesses, approved February 9th, 1865."

On motion, the rules were suspended, and the bill read third time by its title, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, Word, and Mr. Speaker—9.

Nays—Messrs. Gallaher, and Weston—2.

Absent—Messrs. Boswell and Simms.

The title was then agreed to.

H. B. No. 51, an act entitled “An Act to amend an act to regulate proceedings in civil cases in the courts of justice of Montana Territory,” was taken up, and on motion, the rules were suspended, and the bill read third time by title, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Boswell, Gallaher, and Simms.

The title was then agreed to.

Mr. Weston moved to adjourn.

Motion lost.

C. B. No. 56 was then taken up, “An Act in relation to the election of county officers within the several counties of the Territory of Montana.”

Read third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, Word, and Mr. Speaker—9.

Nays—None.

Absent—Messrs. Boswell, Gallaher, Simms, and Weston.

The title was then agreed to.

On motion of Mr. Tennant, the House adjourned until Monday morning, at 10 o'clock, A. M.

THIRTY-SIXTH DAY.

DECEMBER 9, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher and Simms.

Prayer by the Chaplain.

Journal of Saturday read and approved.

Mr. Kennerly, chairman of Committee on Towns and Counties, reported as follows:

MR. SPEAKER—Your Committee on Towns and Counties, to whom was referred C. B. No. 49, being “An Act in relation to the pre-emption of town sites upon the public domain,” beg leave to report that they have had the same under consideration, and respectfully recommend that it pass without amendment.

Report received.

The following message was received from the Council, through Mr. Wade, their Chief Clerk:

That C. B. No. 67 had passed the Council.

Mr. Weston, chairman of the Committee of Conference, to whom was referred C. B. No. 45, made the following report:

MR. SPEAKER—Your Committee of Conference, appointed to confer with a like Committee of the Council, upon C. B. No. 45,

have had the same under consideration, and most respectfully report as follows :

That said Joint Committee have carefully considered the same, and are unanimously in favor of House amendments to said bill, and recommend that the House do not recede from said amendments.

Report received.

Mr. Gallaher, chairman of the Select Committee, to whom was referred H. B. No. 31, reported as follows :

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 31, “An Act to re-enact an act entitled an act to authorize Charles Francisco and David Abbott to construct and maintain a ferry on Sun river,” beg leave to report the same back to the House, with a recommendation that the bill pass.

Report received.

Mr. Word, chairman of Committee on Judiciary, reported as follows :

MR. SPEAKER—Your Judiciary Committee, to whom was referred H. B. No. 45, being an act in relation to liens by attachment and judgment,” beg leave to report that they have had the same under consideration, and report the same back to the House, with the recommendation that it pass without amendment.

Report received.

Mr. Tennant introduced House Joint Memorial No. 5, “Asking Congress to appropriate \$1,100,000 for certain purposes,” was read first and second time, and, on motion of Mr. Comly, the rules were suspended, bill considered engrossed, read the third time by title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was agreed to.

The following message was received from the Council, through Mr. Wade, their Chief Clerk :

That C. B. No. 69 had passed the Council.

Mr. Patton introduced H. B. No. 55, “An Act to re-enact an act to authorize Henry Gassett and James Sinclair to construct and maintain a ferry or bridge across the Jefferson river, passed and approved by the third session of the Legislative Assembly of the Territory of Montana,” was read first and second time, rules suspended, considered engrossed, read a third time by title, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Kennerly, Rhodes, Patton, Tennant, Weston, and Mr. Speaker—10.

Nays—Messrs. Boswell and Word—2.

Absent—Mr. Simms.

The title agreed to.

The following communication was received from the Council, through Mr. Menaugh, Assistant Clerk :

That Mr. Watson introduced C. B. No. 62, “An Act in relation to the election of district officers within the several counties of the Territory of Montana.”

That Mr. Rand introduced C. B. No. 63, “An Act to provide increased compensation to Hon. L. P. Williston.”

That Mr. Orr introduced C. B. No. 64, “An Act supplementary to an act entitled an act regulating the holding of elections in Montana Territory.”

That Mr. Cullen introduced C. B. No. 66, “An Act to provide for judgment upon failure to answer complaint in civil cases.”

That Mr. Rand introduced C. B. No. 68, "An Act in relation to criminals on changes of venue, and the manner of paying the expenses thereof."

Mr. Patton introduced H. B. No. 56, "An Act to re-enact an act to incorporate the Madison Bridge Company, passed and approved by the third session of the Legislative Assembly of the Territory of Montana."

Read first and second time, rules suspended, considered engrossed, read the third time by title, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, and Mr. Speaker—8.

Nays—Messrs. Boswell and Word—2.

Absent—Messrs. Kennerly, Simms, and Weston.

The title was agreed to.

Mr. Tennant, chairman of Committee on Enrollment, reported H. B. No. 41 correctly enrolled.

C. B. No. 18 was taken up.

Mr. Comly moved to adopt the following amendment :

Amend H. B. No. 18 by striking out the words "bridges," "ferries," and "roads," wherever the same may occur, and by striking out all sections of said act referring exclusively to bridges or roads.

Amendments lost by the following vote:

Ayes—Messrs. Boswell, Comly, Gallaher, Rhodes, and Weston—5.

Nays—Messrs. Anderson, Edwards, Kennerly, Patton, Tennant, Word, and Mr. Speaker—7.

Absent—Mr. Simms.

Mr. Comly offered the following amendment, which was, on motion, lost :

Amend section 1 by inserting between the words "years" and "the," in the ninth line, the following: "and in the case of corporations for the purpose of erecting bridges, roads and ferries, not to exceed three years."

Ayes—Messrs. Boswell, Comly, Gallaher, and Rhodes—4.

Nays—Messrs. Anderson, Edwards, Kennerly, Patton, Tennant, Weston, Word, and Mr. Speaker—8.

Absent—Mr. Simms.

Mr. Anderson offered the following amendment, which was adopted :

"*Provided*, That no agricultural company shall be organized under the provisions of this act."

The following message was received from the Council, through Mr. Wade, their Chief Clerk :

That H. B. No. 53 was lost on a third reading.

On motion of Mr. Comly, the amendments of the Committee on Incorporations were taken up *seriatim*, except those relating to roads and bridges.

Mr. Comly moved to adopt the second amendment made by the Committee on Incorporations.

On motion of Mr. Word, the motion was laid on the table.

On motion of Mr. Comly, the third amendment was adopted.

On motion of Mr. Comly, the fourth amendment was adopted.

On motion, the fifth amendment was adopted.

Then Mr. Comly moved that the sixth amendment be adopted.

Mr. Word offered the following amendment to the amendment :

Strike out "ten thousand lineal feet of quartz lodes."

Amendment lost.

The motion to adopt the amendment was then put and lost.

On motion of Mr. Comly, the seventeenth amendment was adopted.

On motion of Mr. Word, the following amendment was adopted :

Add to section 28, the following: “ *Provided*, further, that no ferry or bridge shall be established under the provisions of this act, unless the county commissioners of the county where the same is proposed to be erected shall deem it of public interest that the same be established, and shall consent to the same; and, provided also, that the county commissioners of any county where any toll road, bridge or ferry shall be established under the provisions of this act, shall have full power to increase or decrease the rate of toll at any time they may see proper.”

On motion of Mr. Anderson, the House took a recess until 2 o'clock, p. m.

AFTERNOON SESSION.

[The House resumed its session at 2 o'clock, p. m. Mr. Speaker in the chair.

Roll called—absent, Messrs. Simms and Tennant.

On motion of Mr. Word, C. B. No. 18 was taken up, and read a third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nay—Mr. Boswell.

Absent—Mr. Simms.

The title was agreed to.

Mr. Word presented the petition of citizens of Madison county.

Read, and referred to the Select Committee, of which Mr. Patton is chairman.

Mr. Word, chairman of the Committee on Printing, reported as follows :

MR. SPEAKER—Your Committee on Printing, to whom was referred H. B. No. 46, being “An Act providing for the collection of revenue,” beg leave to report the same back to the House, correctly printed.

The following communication was received from the Governor, through Mr. Cummings, his private secretary :

MR. SPEAKER—I am directed by the Governor to inform the House that he has approved H. J. R. No. 2.

Also, H. J. M. No. 4—memorial and joint resolutions, relating to a proposed treaty with the Blackfoot Indians.

Also, H. B. No. 35, “An Act to amend an act concerning crimes and punishments.”

Mr. Word introduced H. B. No. 57, “An Act authorizing the county commissioners of Madison county to levy and collect a special tax for the purpose of erecting county buildings.”

Read first and second time, rules suspended, considered engrossed, and put upon its final passage.

Read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was agreed to.

Mr. Comly introduced H. J. M. No. 6, “Asking Congress for the establishment of a branch mint for the Territory of Montana,”

Read first and second time, and, on motion of Mr. Tennant, considered engrossed, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was agreed to.

Mr. Word moved to reconsider the vote by which H. B. No. 40 was passed, which motion was lost by the following vote:

Ayes—Messrs. Comly, Edwards, Patton, Tennant, Word, and Mr. Speaker—6.

Nays—Messrs. Anderson, Boswell, Gallaher, Kennerly, Rhodes, and Weston—6.

Absent—Mr. Simms.

The title was agreed to.

The following communication was received from the Council, through Mr. Wade, Chief Clerk:

That Council Bills Nos. 63 and 64, and H. J. R. No. 5, have passed the Council.

The following communication was received from the Governor:

EXECUTIVE OFFICE, MONTANA TERRITORY, }
VIRGINIA CITY, Dec. 9, 1867. }

Gentlemen of the House of Representatives:

“An Act to amend an act entitled an act for the location of the seat of government in and for the Territory of Montana,” having passed both branches of the legislature, and been submitted to me for my consideration, I am compelled, after such reflection as I could give it, to return it without my approval. At an earlier date of the session a bill with the same title passed the legislature and was returned with my objections, somewhat at length. The same reasons I used then are applicable to this bill.

But there is a serious reason for not approving the present bill, because I take it to be in direct conflict with the Organic Act, and therefore unconstitutional.

Section 12 of the Organic Act reads as follows: "That the Legislative Assembly of the Territory of Montana shall hold its first session at such time and places in such Territory as the Governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, they shall proceed to locate and establish the seat of government for said Territory, at such place as they shall deem eligible, provided that the seat of government fixed by the Governor and Legislative Assembly shall not be at any time changed, except by an act of the legislature, duly passed, and which shall be duly approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question."

This provision of the Organic Act expressly declares that the seat of government shall *not be changed at any time* except by an act duly passed, by fixing *a place, one place*, other than where it is established, to which it shall be removed by a majority of the legal votes cast.

The present bill fixes three separate and distinct localities, for which the people are called upon to vote, thereby setting aside the clear intent of the Organic Act, which was that but one point should be designated, save the one where the capital at present is established.

The preceding language of the Organic Act to the proviso says: "The Governor and Legislative Assembly, as they shall deem expedient, shall proceed to locate and establish the seat of government for said Territory *at such place* as they may deem eligible," using the singular number, "place," for its establishment, if removed from where the Governor originally fixed it. Now, therefore, it "shall not be at any time changed," says the act, from where "fixed,"—the place "fixed by the Governor and Legislative Assembly," except by "an act of the said Assembly," by fixing *a place* or "*such place*" as is eligible, to which it shall go by a majority of the legal votes cast.

For the foregoing, and other pertinent and weighty reasons, I return the bill for your further action.

GREEN CLAY SMITH.

Communication ordered to be spread upon the journal of the House at length.

The following message was received from the Council, through Mr. Wade, their Chief Clerk :

That H. B. No. 53 had passed the Council.

H. B. No. 43 was then reconsidered, and the question put, "Shall the bill pass, notwithstanding the objections of the Governor?"

Roll called.

Ayes—Messrs. Anderson, Boswell, Comly, Rhodes, Tennant, Weston, and Mr. Speaker—7.

Nays—Messrs. Edwards, Gallaher, Kennerly, Patton, and Word—5.

Absent—Mr. Simms.

The bill was lost, not having received a two-thirds vote.

C. B. No. 63 was taken up, read the first time, and on motion of Mr. Comly was rejected by the following vote :

Ayes—Messrs. Anderson, Boswell, Comly, Gallaher, Kennerly, Patton, Rhodes, Tennant, Word, and Mr. Speaker—10.

Nay—Mr. Edwards.

Absent—Messrs. Simms and Weston.

C. J. M. No. 2, " Asking Congress for the establishment of post offices and post roads."

Read first and second time, rules suspended, read the third time by title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Kennerly, Simms, and Tennant.

The title was agreed to.

C. B. No. 64 was read the first time, and, on motion, rejected.

C. B. No. 67, "An Act authorizing the Auditor to issue warrants in favor of the Hon. John H. Rogers, for services rendered."

Read first and second time, rules suspended, read the third time, and passed.

Ayes—Messrs. Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Anderson and Simms.

The title was agreed to.

C. B. No. 49, "An Act relative to the pre-emption of town sites upon public lands, and the disposal of the waste created thereby."

Rules suspended, read a third time by title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Edwards, Gallaher, and Simms.

Mr. Word, chairman of the Committee on Judiciary, reported as follows :

MR. SPEAKER—Your Judiciary Committee, to whom was referred Council Bill No. 27, entitled "An Act to regulate proceedings and defining the jurisdiction of the probate courts of this Territory," would recommend that the bill be amended by striking out sections 16, 17, 18, 20, 21, 22, 23, 25, 26, 95, 97, and with these amendments, and the remaining sections numbered properly, recommend the passage of the bill.

Report received.

On motion of Mr. Anderson, the House resolved itself into Committee of the Whole, to consider H. B. No. 46. Mr. Anderson in the chair.

The House resumed. Mr. Word in the chair.

Mr. Anderson, chairman of the Committee of the Whole, upon H. B. No. 46, reported as follows:

MR. SPEAKER—Your Committee of the Whole, to whom was referred House Bill No. 46, herewith report the same back to the House, with the recommendation that it be referred to a Select Committee of three, and that said Committee be instructed to report the bill back to the House, at 3 o'clock, P. M., to-morrow.

Report received.

H. B. No. 50, was taken up, “An Act to define the boundary lines of Chouteau county, and to locate the county seat thereof.”

On motion of Mr. Kennerly, the rules were suspended, the bill considered engrossed, and put upon its final passage. Read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

C. B. No. 60, “An Act to dissolve the bonds of matrimony between G. Jules Germain and Marie Germain, his wife.”

Read the first and second time, rules suspended, read the third time by its title, and lost by the following vote:

Ayes—Messrs. Edwards, Tennant, Weston, and Mr. Speaker—4.

Nays—Messrs. Anderson, Boswell, Comly, Gallaker, Kennerly, Patton, Rhodes, and Mr. Word—8.

Absent—Mr. Simms.

The following communication was received from the Council through Mr. Wade, their Chief Clerk:

That House amendments to C. B. No. 45, submitted to Committee of Conference, had been concurred in by the Council.

That the vote by which H. B. No. 53 was lost, had been reconsidered, and the bill passed.

The report of Mr. Anderson, of the Committee of the Whole, upon H. B. No. 46, was concurred in, and the bill referred to a Select Committee of three, consisting of Messrs. Comly, Rhodes, and Patton.

H. B. No. 69, "An Act to provide compensation to John P. Bruce for services rendered the Territory of Montana."

Read first and second time, rules suspended, the bill read the third time by title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Rhodes and Simms.

The title was agreed to.

On motion of Mr. Word, the House adjourned.

THIRTY-SEVENTH DAY.

DECEMBER 10, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the Chaplain.

Journal of yesterday read and approved.

Mr. Rhodes, chairman of the Committee of Ways and Means, made the following report :

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred H. B. No. 49, have had the same under consideration, and would respectfully beg leave to recommend that said bill be referred to Committee of the Whole.

Report received.

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 34, have had the same under consideration, and would respectfully recommend its passage, with the following amendments :

Section 2, line three, after the word “there,” strike out “shall be” and insert “is hereby.”

Amend line six after the word “of,” by striking out “five” and inserting “ten.”

All of which is respectfully submitted.

Also, the following:

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred H. B. No. 2, have had the same under consideration, and would respectfully beg leave to recommend, that said bill and protest from citizens of Helena be referred to Committee of the Whole.

Report received.

Mr. Word introduced H. B. No. 50, "An Act to regulate proceedings in civil cases in the courts of justice of Montana Territory."

Rules suspended, read first and second time by title, and ordered printed.

House Bill No. 54, "An Act in relation to liens by attachment and judgment," was taken up, rules suspended, read third time by title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—9.

Nays—None.

Absent—Messrs. Edwards, Gallaher, Simms, and Tennant.

The title was then agreed to

H. B. No. 11, "An Act to amend an act to incorporate the City of Virginia."

The substitute reported by Select Committee was adopted.

Rules suspended, bill considered engrossed, read third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Boswell, Gallaher, and Simms.

The title was then agreed to.

Mr. Tennant, chairman of Committee on Enrollment, made the following report:

That H. B. Nos. 52 and 53, and H. J. M. No. 5, were correctly enrolled.

Report received.

House Bill No. 3, "An Act to re-enact an act entitled an act to authorize Charles Francisco and David Abbott to construct and maintain a ferry across Sun river," was read for information.

On motion of Mr. Kennerly, the bill was indefinitely postponed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Kennerly, Patton, Rhodes, Tennant, and Mr. Speaker—9.

Nays—Messrs. Gallaher, Weston, and Word—3.

Absent—Mr. Simms.

A communication was received from the Council, through Mr. Wade, their Chief Clerk:

That C. B. No. 47, "An Act defining the Council and Representative districts of the Territory of Montana, and apportioning the members of Legislative Assembly," had passed the Council.

Also, C. B. No. 70, "An Act to re-enact an act authorizing Henry Whaly, Joseph V. Stafford and William E. Pinney and their associates, to establish and maintain a toll road from Cave City, in Cave Gulch, to the mouth of said gulch, in Meagher county, Montana Territory," had passed the Council.

That H. B. No. 56, "An Act to re-enact an act to incorporate the Madison Bridge Company," had passed the Council.

That H. B. No. 55, "An Act to re-enact an act to authorize Henry Gassett and James Sinclair to construct and maintain a bridge or ferry across the Jefferson river," had passed the Council.

That H. B. No. 50, "An Act to define the boundary lines of Chouteau county, and locate the county seat thereof," had passed the Council.

That H. J. M. No. 6, "Asking Congress to establish a branch mint for the Territory of Montana," had passed the Council.

H. B. No. 45, "An Act to provide for laying out and establishing a territorial road from Bozeman City to Helena City."

A motion to adopt the amendment of Select Committee was lost by the following vote:

Ayes—Messrs. Anderson, and Tennant—2.

Nays—Messrs. Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Absent—Mr. Simms.

On motion of Mr. Edwards, the rules were suspended, the bill considered engrossed, and put upon its final passage.

Section 6 was amended by consent, by inserting after the word "ferry," the words "or other property."

H. B. No. 45 was then read third time, and passed.

Ayes—Messrs. Comly, Edwards, Gallaher, Tennant, Weston, and Mr. Speaker—6.

Nays—Messrs. Anderson, Boswell, Patton, Rhodes, and Word—5.

Absent—Messrs. Kennerly, and Simms.

Mr. Comly, chairman of Select Committee, reported as follows:

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 46, "An Act providing for the collection of the revenue," respectfully report the bill back and recommend that it pass, with the following amendments:

1. In line 5 of section 1, between the word "mills" and the word "and," insert the words "for the benefit of the poor, not more than one mill on the dollar."
2. In section 4, strike out 15th line.
3. In section 5, line 3, after the word "there," strike out the remainder of the section.
4. In section 14, line 2, before "manufacturing," substitute "of" for "or."

5. In section 15, strike out "collector" in 9th, 11th, and 13th line, and substitute, in lieu thereof, the word "treasurer."

6. In sections 16, line 2, strike out "answering" and substitute "ensuing."

7. In sections 25, 27, 28, 29, 30, 33, 34, 36, 38, 39, 41, 42, 43, 44, 45, 49, 51, and 56, strike out the words "collector," "county collector," or "collector of the county," and in every instance insert in lieu thereof, the words "county treasurer."

8. In section 41, 4th line, strike out "subject," and insert "subsequent."

9. In section 49, between the words "failure" and "keeping," insert the words "of any one."

10. In section 52, strike out "and" between "clerk" and "county," and insert "to the."

11. In section 52, line 2, strike out "to the collector," and after the word "such," strike out "collector" and insert "county treasurer."

12. In section 52, 3rd line, strike out "the collector" and insert "the county treasurer."

13. In section 52, line 4, strike out the words "or county."

14. In section 52, line 5, strike out the words "and county," and the word "respectfully."

15. In section 52, line 9, strike out "collector," and insert "county treasurer."

16. Amend section 53 as follows:

In line one, strike out "collector" and insert "county treasurer."

In line two, strike out "and county treasurers," and insert "treasurer."

Same line, strike out "and county," at end of line.

In third line, strike out "respectively," and strike out "appointment" and insert "collector."

In fourth line, strike out "collector" and insert "county treasurer."

In line five, strike out the words "either" and "or county."

In line six, strike out the words "they are," and insert "he is."

In line seven, make the word "treasurers" read "treasurer."

17. Strike out sections 54, 57, and 59.

18. In section 58, strike out after "1865," the following: "and so much of the act pertaining to counties and county officers, approved February 9, 1865, as requires a treasurer to collect the revenue."

Your Committee would recommend that the printed copy of the bill No. 46, be substituted for the written copy, and it, with the amendments proposed, be adopted.

Report received.

On motion of Mr. Comly, H. B. No. 45 was made a special order for 2½ o'clock, P. M.

C. B. No. 27 was then taken up, and on motion, the amendments reported by the Judiciary Committee were adopted.

C. B. No. 27, "An Act to regulate the proceedings and define the jurisdiction of the probate courts of this Territory," was put upon its final passage, rules suspended, read a third time by its title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Word, and Mr. Speaker—9.

Nay—Mr. Weston.

Absent—Messrs. Kennerly, Simms, and Tennant.

The title was then agreed to.

Mr. Comly moved to reconsider the vote by which C. B. No. 60 was lost.

Mr. Word moved to lay the motion on the table.

Motion lost.

The original motion was then put, and carried.

And C. B. No. 60, on motion, was made special order for Friday, at 7 o'clock, P. M.

The following communication was received from the Council through Mr. Wade, their Chief Clerk :

That H. B. No. 44, "An Act to re-enact an act entitled an act authorizing Sam. Bressler, Robert Hedges, their associates, heirs and assigns, to construct and maintain a toll road in Madison county, to Sterling, in Hot Spring district," had passed the Council.

That H. B. No. 33, "An Act to re-enact an act to incorporate the Black Tail Deer and Helena Wagon Road Company," had passed the Council.

That H. B. No. 17, "An Act concerning the registration of births and deaths," has been indefinitely postponed.

On motion of Mr. Rhodes, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Kennerly and Simms.

Mr. Comly, by consent, introduced H. B No. 59, "An Act supplementary to an act relating to the discovery of gold and silver quartz leads, lodes or ledges, and of the manner of their location, approved December 26, 1864," read first and second time, and referred to the Committee on Mines and Minerals.

Mr. Tennant introduced H. J. R. No. 7, to amend Joint Rule No. 8, read first and second time, rules suspended, and considered engrossed, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms.

The following communication was received from the Council, through Mr. Menaugh, their assistant Clerk :

That H. B. No. 18, “An Act for the relief of E. Lovelock and W. K. Roberts,” has passed the Council with the title amended.

And that H. B. No. 40, “An Act supplementary to an act in relation to notaries public,” has been indefinitely postponed.

On motion of Mr. Word, H. B. No. 2, “An Act authorizing Professor Swallow to make a preliminary geological survey, etc.,” was taken up, and on motion, was indefinitely postponed.

Mr. Word moved that the House concur in Council amendments to title of H. B. No. 18.

Motion carried.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

MR. SPEAKER—I am directed by the Council to inform your honorable body, that the Council has concurred in House amendments to C. B. No. 18, being “An Act to provide for the formation of corporations for certain purposes,” excepting such as refer to section 23, which reads, by striking out all after the word “changed,” etc., and all that portion of the amendments, “provided that no agricultural company shall be organized under the provisions of this act,” and most respectfully ask your honorable body to recede from that portion of the amendments, the Council not having concurred in said portion of amendments.

The following communication was received from His Excellency the Governor, through Mr. Cummings, his private secretary :

MR. SPEAKER—His Excellency the Governor directs me to inform the House, that he has approved House Bill No. 41, “ An Act requiring certain officers to surrender the books of their office, the Treasurer, Auditor and Superintendent, to file an oath, with bonds, etc.”

Also, House Bill No. 53, “ An act supplementary to an act amendatory of an act entitled an act regulating the holding of elections in Montana Territory, approved November 22, 1867.”

On motion of Mr. Word, the House concurred in the Council amendments to C. B. No. 18.

Ayes—Messrs. Anderson, Boswell, Edwards, Gallaher, Patton, Word, and Mr. Speaker—7.

Nays—Messrs. Comly, Rhodes, and Tennant—3.

Absent—Messrs. Kennerly, Simms, and Weston.

Mr. Tennant, chairman of the Committee on Enrollment, made the following report :

MR. SPEAKER—Your Committee on Enrollment beg leave to report H. B. Nos. 29, 52, 53, and H. J. M. No. 5, correctly enrolled.

Report received.

On motion of Mr. Anderson, H. B. No. 49 was made special order for 10½ o'clock, A. M., to-morrow.

The House resolved itself into Committee of the Whole, to consider H. B. No. 46.

Mr. Comly in the chair.

House resumed. Mr. Speaker in the chair.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That the House amendments to C. B. No. 7 had been concurred in by the Council.

That H. J. R. No. 7, to amend Joint Rule No. 8, had passed the Council.

That C. B. No. 6, "In relation to the distribution of the laws," had passed the Council.

Also, the following :

MR. SPEAKER—I am directed by the Council to inform your honorable body, that the House amendments to C. B. No. 27, being "An Act to regulate and define the jurisdiction of the probate courts of this Territory," have been concurred in by the Council.

Mr. Comly, chairman of the Committee of the Whole, reported as follows :

MR. SPEAKER—The Committee of the Whole, to whom was referred H. B. No. 46, respectfully report that they have had the same under consideration, and recommend that amendments reported by the Select Committee be adopted.

That the printed bill be substituted for the written.

That section 1 be amended by striking out the word "collector" in second line, and substituting "county treasurer."

That the word "and," in second line of section seven, be stricken out.

Report received.

On motion of Mr. Weston, the amendments were adopted, and the bill as amended, ordered engrossed for third reading.

C. B. No. 70, "An Act to re-enact an act authorizing Henry Whaly, Joseph V. Stafford and William E. Pinney and their associates, to establish and maintain a toll road from Cave City in Cave Gulch, at the mouth of said gulch, in Meagher county, Montana Territory."

Read first and second time, rules suspended, read third time by the title, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—9.

Nay—Mr. Boswell.

Absent—Messrs. Kennerly, Simms, and Word.

The title was then agreed to.

H. B. No. 34, "An Act to establish a territorial hospital," was taken up.

Mr. Gallaher offered the following amendment:

Amend section 1, fourth line, by striking out "two" after the word "Montana" and insert "one."

Also, all in section 1, after the word "hospital," and insert Springville, Jefferson county."

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

That H. B. No. 7, "An Act authorizing the county commissioners of Madison county to levy and collect a special tax for the purpose of erecting county buildings," has passed the Council with the following amendments:

In line second, in section one, after the word "Madison" insert "and Jefferson," and in same line, strike out "county" and insert "counties."

And that the title be so amended as to read "Madison and Jefferson counties."

On motion, H. B. No. 34 was made special order for 10½ o'clock, A. M., to-morrow.

Mr. Edwards, chairman of Committee on Mines and Minerals, reported as follows:

MR. SPEAKER—Your Committee on Mines and Minerals, to whom was referred H. B. No. 59, beg leave to report the same back, with request that the same do pass.

Report received.

H. B. No. 59 was taken up, and, on motion of Mr. Word, was referred to a Select Committee of three.

Messrs. Word, Weston, and Edwards, were appointed said committee.

Council amendments to H. B. No. 57 were concurred in.

Mr. Tennant, chairman of Committee on Enrollment, reported as follows:

MR. SPEAKER—Your Committee on Enrollment beg leave to report, that H. B. Nos. 29 and 53, also H. J. M. No. 5, were duly handed to the Governor, December 10th, 1867, at 11 o'clock, A. M.

Report received.

On motion of Mr. Tennant, the House adjourned.

THIRTY-EIGHTH DAY.

DECEMBER 11, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the Chaplain.

Journal of yesterday read and approved.

Mr. Patton, by consent, introduced H. B. No. 60, "An Act to re-enact an act to authorize L. H. Warren, Henry Gassett, and James Sinclair, to construct and maintain a ferry across Big Horn river."

Read first time.

On motion of Mr. Word, rejected.

H. B. No. 61 was introduced by Mr. Edwards, "An Act to provide for compensation for James Tufts, Secretary of Montana Territory."

Read first and second time.

Mr. Edwards moved to suspend the rules, consider the bill engrossed, and put upon its final passage.

On motion of Mr. Word, the motion was amended by referring to a Select Committee of three.

Messrs. Word, Gallaher, and Edwards, were appointed as said Committee.

C. J. R. No. 6, "In relation to the distribution of the laws," was read first and second time, and, on motion of Mr. Word, the following amendment was adopted:

Amend the resolution as follows:

"And fireman one copy, and each county and territorial officer in the Territory one copy." And strike out the word "and" between the words "doorkeeper" and "sergeant-at-arms."

The rules were then suspended, and the resolution read the third time by title, and passed.

Ayes—Messrs. Boswell, Comly, Edwards, Gallaher, Patton, Kennerly, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nay—Mr. Anderson.

Absent—Mr. Simms.

The title was agreed to.

Mr. Weston, by consent of the House, introduced H. J. R. No. 8, "Appropriating money to Wm. Deascey."

Read first and second time, rules suspended, read the third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—12.

Nays—None.

Absent—Mr. Simms.

The title was agreed to.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

That C. J. R. No. 5 had passed the Council.

H. B. No. 49 was taken from the Committee of the Whole.

The bill was then read for information.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That C. B. Nos. 60 and 68 had passed the Council.

On motion of Mr. Tennant, H. B. No. 49, "An Act entitled an act defining the duties of assessors of the several counties of the Territory of Montana," was indefinitely postponed.

C. B. No. 47, "An Act defining the Council and Representative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly thereof."

Read the first and second time, and, on motion, referred to a Select Committee of three, consisting of Messrs. Kennerly, Word, and Comly.

Mr. Word, chairman of the Select Committee, to whom was referred House Bill No. 59, reported as follows :

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 59, being "An Act supplementary to an act relating to the discovery of gold and silver quartz leads, lodes or ledges, and of the manner of their location," beg leave to report the same back to the House, with the the recommendation that it pass, with the following amendments :

In section 1, third line, after the word "up," insert the words "under the provisions of the act to which this is supplementary."

In 5th line of same section, after the word "the," and before the word "owner," insert the word "legal."

In 6th line, strike out the words "or claimant," and insert the words "or owners" in lieu thereof.

Report received and adopted, and ordered engrossed for the third reading.

The House then resolved itself into Committee of the Whole, to consider H. B. No. 34. Mr. Anderson in the chair.

The House resumed. Mr. Speaker in the chair.

Mr. Anderson, chairman of the Committee of the Whole, was granted until three o'clock this P. M. to report.

On motion of Mr. Boswell, the House took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Mr. Tennant, chairman of the Committee on Enrollment, reported House Bills Nos. 18, 44, 55, and H. J. R. No. 7, correctly enrolled.

Mr. Kennerly, chairman of the Select Committee, to whom was referred C. B. No. 47, reported as follows:

MR. SPEAKER—A majority report of your Select Committee, to whom was referred C. B. No. 47, being "An Act defining the Council and Representative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly thereof," beg leave to report that they have had the same under consideration, and respectfully report the same back, and recommend that it do not pass; and being fully convinced of the necessity of increasing the Legislature to the full number allowed by the Organic Act, your Committee beg leave to report the accompanying bill as a substitute for C. B. No. 47, and recommend its adoption.

Substitute for C. B. No. 47 was, on motion, adopted.

Read first and second time.

Mr. Weston moved to suspend the rules, and read the bill the third time.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That the amendments to C. J. M. No. 6, made by the House, were concurred in.

And that C. B. No. 71 had passed the Council.

On motion of Mr. Word, the substitute to C. B. No. 47 was made the special order for four o'clock, P. M.

Mr. Word, chairman of the Select Committee, to whom H. B. No. 61 was referred, reported as follows :

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 61, beg leave to report the same back to the House, with the recommendation that the accompanying bill be adopted as a substitute for the original bill.

Mr. Word moved to adopt the substitute to H. B. No. 61.

Motion lost.

H. B. No. 61 read for information.

Mr. Comly in the chair.

Mr. Stewart moved that the rules be suspended, the bill read the third time, and put upon its final passage.

Motion lost.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That H. B. No. 11 had passed the Council, with amendments.

Mr. Word moved to indefinitely postpone H. B. No. 61.
Motion lost.

Mr. Stewart moved that the bill be considered engrossed.
Motion carried.

The bill was then read third time, and passed.

Ayes—Messrs. Comly, Edwards, Gallaher, Kennerly, Tennant, Weston, and Mr. Speaker—7.

Nays—Messrs. Anderson, Boswell, Patton, and Word—4.

Absent—Messrs. Rhodes and Simms.

The title was agreed to.

C. J. R. No. 5, “Authorizing the Auditor to pay Wm. Y. Lovell thirty dollars,” was read the first and second time, and, on motion of Mr. Word, the resolution was laid on the table.

C. B. No. 71, “An Act to re-enact an act to authorize Ray W. Andrews to establish a ferry across the Missouri river.”

Read first and second time.

Mr. Kennerly offered the following amendment:

Provided, That the said Ray W. Andrews shall construct a good and safe boat for the purpose—ferrying on said Missouri river—within one year after the passage of this act.”

Which was, on motion, adopted.

The following message was received from the Governor, in writing:

EXECUTIVE OFFICE, TERRITORY OF MONTANA, }
VIRGINIA CITY, Dec. 11, 1867. }

GENTLEMEN—I would respectfully call the attention of the Legislature to the fact that, while a law has been passed locating the penitentiary, and forty thousand dollars has already been appropriated for the erection of said buildings, and the probability is that by the first of July, 1868, the work will be sufficiently completed to receive all Territorial prisoners, there has been no provision made to take charge of said building, or any portion

thereof, or the prisoners already or hereafter to be sentenced. Would it not then be well for the Legislature to provide some manner of electing or appointing "A keeper of the penitentiary," wardens, etc., in the event they should be needed within the next year, giving them the authority and privileges usually granted such officers, fixing the salary to be paid per annum to each, beginning with the time they enter upon their duties.

The Legislature not meeting in 1868 until December, many months will pass, with prisoners in county jails at heavy expense, who might really be in the penitentiary at much less cost, and performing labor for the benefit of the Territory, if the proper provisions were made at this session, before its adjournment.

GREEN CLAY SMITH.

On motion, referred to the Committee on Territorial Affairs.

The following message was received from the Governor, through his private secretary, Mr. Browne :

MR. SPEAKER—I am directed by the Governor to inform the House, that he has this day approved Joint Resolution No. 7, "To amend Joint Rule No. 8."

I am also directed by the Governor to deliver a message in writing.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That C. J. R. No. 7 had passed the Council.

Mr. Word moved to reconsider the vote by which the amendment to C. B. No. 71 was adopted.

Mr. Kennerly moved that the bill and the amendment be laid on the table.

Motion carried.

C. B. No. 68, "An Act in relation to criminals, on change of venue, and the manner of paying the expenses thereof."

Read first and second time, and referred to the Committee on Judiciary.

C. B. No. 62, "An Act in relation to the election of district officers within the several counties of the Territory of Montana," read the first and second time, and referred to the Committee on Elections.

C. J. R. No. 7, "Authorizing the Secretary of the Territory to correct orthography, etc.," read the first and second time, and the rules were suspended.

The resolution was read the third time by title, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—11.

Nays—None.

Absent—Messrs. Kennerly and Simms.

Mr. Anderson, chairman of the Committee of the Whole, reported as follows:

MR. SPEAKER—The Committee of the Whole have had under consideration H. B. No. 34, "An Act for the establishment of Territorial hospitals," and have adopted the following amendments to the bill:

Amend section 1, fourth line, by striking out the word "two," after the word "Montana," and insert "one." Also, all in section 1, after the word "hospital," and insert "Springville, Jefferson county." Also, amend the bill by striking out "\$5,000," and inserting "\$10,000" in lieu thereof, and your Committee recommend that the bill, as amended, be reconsidered in its general order.

Report received.

Mr. Tennant, chairman of the Committee on Enrollment, reported as follows:

That H. B. Nos. 18, 44, 55, also, C. J. R. No. 7, were duly handed to the Governor for his approval, December 11th, 1867, at 2 p. m.

Also, that H. B. Nos. 33, 50, and 56, were correctly enrolled.

Substitute for C. B. No. 47 was taken up.

A call of the House was, on motion, dispensed with.

On motion of Mr. Comly, the vote by which C. B. No. 47 was passed to the third reading, was reconsidered.

On motion of Mr. Comly, the vote by which the substitute to C. B. No. 47 was adopted, was reconsidered.

C. B. No. 47 was, on motion of Mr. Word, referred to a Select Committee of three, consisting of Messrs. Word, Comly, and Kennerly.

On motion of Mr. Comly, the House adjourned.

THIRTY-NINTH DAY.

DECEMBER 12, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the Chaplain.

Journal of yesterday read and approved.

Mr. Gallaher presented a petition from the citizens of Gallatin county.

Read, and referred to the Committee on Towns and Counties.

Mr. Kennerly, chairman of the Committee on Elections, reported as follows:

MR. SPEAKER—Your Committee on Elections, to whom was referred C. B. No. 62, being “An Act in relation to district officers within the several counties of the Territory of Montana,” beg leave to report that they have had the same under consideration, and respectfully report the same back, and recommend that it pass without amendments.

Report received.

Mr. Gallaher introduced H. B. No. 62, “An Act supplementary and amendatory of an act establishing the boundaries of Jefferson county.”

Read first and second time, and referred to Committee on Towns and Counties.

Mr. Weston introduced H. J. R. No. 9, "Authorizing the Auditor to draw certain warrants."

Read first and second time, and referred to the Committee on Ways and Means.

Mr. Kennerly introduced the following House Concurrent Resolution :

*Be it Resolved, by the House of Representatives of the Territory of Montana, the Council concurring, That the Legislative Assembly of the Territory of Montana do adjourn *sine die*, on Saturday, the 14th inst., at 12 o'clock M.*

Mr. Anderson moved to amend as follows, which was adopted :

Strike out "12 o'clock M." and insert "12 o'clock at midnight, of Friday, December 13th, 1867."

The resolution was then adopted as amended.

The amendments adopted to C. B. No. 11 were concurred in by the House.

H. B. No. 11 was then ordered enrolled.

The following communication was received from the Governor :

MR. SPEAKER—His Excellency the Governor desires me to inform your honorable body that he has approved H. B. No. 29, "An Act relating to the discovery and possessory right of all placer mines."

Also, Joint Memorial, "Asking Congress to appropriate \$1,100,000 for certain purposes."

Ayes—Messrs. Anderson, Boswell, Edwards, Gallaher, Kennerly, Patton, Tenant, and Mr. Speaker—8.

Nays—Messrs. Weston and Word—2.

Absent—Messrs. Comly, Rhodes, and Simms.

The title was agreed to.

Mr. Comly in the chair.

H. B. No. 34, "An Act-establishing a Territorial Hospital."

Mr. Word moved that the amendments of the Committee of the Whole to C. B. No. 34 be laid on the table, which motion was lost by the following vote:

Ayes—Messrs. Edwards, Patton, Rhodes, and Word—4.

Nays—Messrs. Anderson, Boswell, Comly, Gallaher, Kennerly, Tennant, Weston, and Mr. Speaker—8.

Absent—Mr. Simms.

Mr. Anderson moved that the amendments of the Committee of the Whole be read and adopted *seriatim*.

Motion adopted.

On motion of Mr. Anderson, the first amendment was adopted.

Mr. Word moved to lay all the amendments, offered since the bill was reported back from the Committee of Ways and Means, on the table.

Mr. Weston moved to lay the bill, with amendments, on the table.

Motion lost.

The ayes and nays were demanded upon Mr. Word's motion to lay the amendments on the table, which resulted as follows:

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Word, and Mr. Speaker—10.

Nay—Mr. Weston.

Absent—Messrs. Kennerly and Simms.

On motion, H. B. No. 34 was considered engrossed, and put upon its final passage. Read third time and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, Tennant, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Kennerly, Simms, and Weston.

The title was agreed to.

The following communication was received from the Governor, through Mr. Brown, his private secretary :

MR. SPEAKER—I am directed by the Governor to inform the House that he has this day approved H. B. No. 56, entitled “An Act to re-enact an act entitled an act to incorporate the Madison Bridge Company, passed and approved at the third session of the Legislative Assembly of the Territory of Montana.”

Also, H. B. No. 51, entitled “An Act to define the boundary line of Chouteau county, and to locate the county seat thereof.”

Also, H. B. No. 54, entitled “An Act to re-enact an act authorizing Samuel Bressler and Robert Hedge, their associates, heirs and assigns, to construct and maintain a toll road from Virginia City, in Madison county, to Sterling, in Hot Spring district.”

Also, H. B. No. 33, entitled “An Act to re-enact an act entitled an act to incorporate the Black Tail Deer and Helena Wagon Road Company, passed and approved at the second session of the legislature of Montana.”

Also, H. B. No. 52, entitled “An Act to re-enact an act entitled an act to authorize Samuel Wier and his associates to construct and maintain a bridge or ferry across the Madison river, near the mouth of the same.”

Also, H. B. No. 18, entitled “An Act for the relief of Edward Lovelock, and W. K. Roberts, sheriff of Edgerton county.”

Also, H. B. No. 55, entitled “An Act to re-enact an act to authorize Henry Gassett and James Sinclair to construct and maintain a ferry or bridge across the Jefferson river, passed and approved by the third session of the Legislative Assembly of the Territory of Montana.”

Mr. Speaker in the chair.

Mr. Tennant, chairman of the Committee on Enrollment, reported that H. B. No. 37, and H. J. R. No. 6 were correctly enrolled; that H. B. Nos. 33, 50 and 56 were duly handed to the Governor for his approval, at 11 o'clock, A. M., December 12, 1867.

"An Act providing for the collection of the revenue," was read the third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Kennerly, Rhodes, Tennant, Word, and Mr. Speaker—9.

Nays—Messrs. Boswell and Patton—2.

Absent—Messrs. Simms and Weston.

The title was then agreed to.

Mr. Kennerly introduced H. J. R. No. 10, " Asking H. L. Hosmer and L. E. Munson, judges of the supreme court, to resign."

Read first and second time, rules suspended, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Edwards, Gallaher, Kennerly, Rhodes, Tennant, and Mr. Speaker—9.

Nays—Messrs. Patton, Weston, and Word—3.

Absent—Mr. Simms.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

That H. C. R. to adjourn, was laid on the table for the present.

That H. B. Nos. 30 and 61 had passed the Council, with amendments.

That H. J. R. No. 8 had passed the Council.

On motion, the House took a recess until 2 o'clock, p. m.

AFTERNOON SESSION.

The House resumed its session at 2 o'clock, p. m. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Mr. Rhodes, chairman of the Committee of Ways and Means, made the following report :

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred H. J. R. No. 9, have had the same under consideration, and respectfully recommend the same back, with recommendation that it pass, without amendments.

Report received.

Mr. Wade, Chief Clerk of the Council, delivered the following message :

That C. B. No. 72 and C. J. R. No. 8 had passed the Council.

On motion of Mr. Gallaher, H. J. R. No. 9 was put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Gallaher, Kennerly, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Edwards and Simms.

Excused from voting—Mr. Word.

The title was agreed to.

C. J. R. No. 8, “To provide compensation to J. J. Roe & Co.”

Read first and second time, and referred to Committee of Ways and Means.

C. B. No. 72, “An Act to provide compensation to E. S. Wilkinson and P. Ronan for services rendered the Territory.”

Read first and second time, rules suspended, read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Gallaher, Patton, Rhodes, Tennant, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Edwards, Kennerly, and Simms.

The title was agreed to.

Mr. Anderson moved that the [Council] amendments to H. B. No. 30 be concurred in.

Motion lost.

On motion of Mr. Comly, the Clerk was instructed to return H. B. No. 30 to the Council, and respectfully ask that body to recede from their amendments.

Mr. Anderson moved that the House do not concur in the Council amendments to H. B. No. 61. Carried.

On motion of Mr. Anderson, the Clerk was instructed to return H. B. No. 61 to the Council, and ask that they recede from their amendments to H. B. No. 61.

A call of the House ordered.

Roll called—absent, Messrs. Edwards and Kennerly.

Further proceedings under the call were then dispensed with.

On motion of Mr. Word, the House refused to concur in the Council amendments to H. B. No. 54, and the bill returned to the Council, with the request that they recede from their amendments.

The following message was received from the Council, through Mr. Wade, their Chief Clerk :

MR. SPEAKER—I am directed by the Council to inform your honorable body that they respectfully decline to recede from the amendments to H. B. No. 30, and hereby direct me to return the bill for your further consideration.

H. B. No. 59, “An Act supplementary to an act relating to the

discovery of gold and silver quartz leads, lodes or ledges, and of the manner of their location, approved December 26, 1867."

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Gallaher, Patton, Rhodes, Tennant, Weston, and Mr. Speaker—9.

Nay—Mr. Word.

Absent—Messrs. Edwards, Kennerly, and Simms.

The title was agreed to.

Mr. Word, chairman of Select Committee, to whom was referred C. B. No. 47, reported as follows:

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 47, being "An Act defining the Council and Representative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly," beg leave to report the same back, with recommendation that the accompanying bill be substituted.

Report received.

Mr. Weston offered substitute for C. B. No. 47.

Mr. Anderson moved to lay the substitute on the table.

Motion carried.

A call of the House was ordered.

Roll called—absent, Messrs. Edwards and Kennerly.

Further proceedings under the call were dispensed with.

Mr. Weston moved that the substitute offered by the Select Committee be adopted.

Mr. Word moved to lay the motion on the table.

Mr. Word moved for a call of the House.

Roll called—absent, Mr. Kennerly.

Further proceedings under the call were dispensed with.

The following message was received from the Council, through Mr. Wade, their Chief Clerk :

That H. J. R. No. 10 was indefinitely postponed.

That the Council refused to recede from their amendments to H. B. No. 30.

Also, that the Council refused to recede from their amendments to H. B. No. 54.

Mr. Gallaher in the chair.

The following message was received from the Council, through Mr. Wade, their Chief Clerk :

That H. B. No. 55 had been indefinitely postponed in the Council.

That the Council refused to recede from their amendments to H. B. No. 61.

Mr. Weston moved to adopt Mr. Kennerly's substitute to C. B. No. 47.

Mr. Word moved to adjourn. Lost.

Mr. Comly moved to refer the bill to a Select Committee of three, and to report at 10 o'clock, A. M., on the 13th inst.

Mr. Boswell moved to amend by inserting, "3 o'clock, this P. M." Adopted.

Messrs. Comly and Gallaher were appointed, and on motion of Mr. Gallaher, Mr. Speaker was added to the Committee.

Mr. Edwards offered the following resolution:

Resolved, That a Committee of two from the Council and three from the House, be appointed to apportion the Territory.

On motion of Mr. Anderson, the resolution was laid on the table.

On motion of Mr. Anderson, the House took a recess until 8 o'clock, P. M.

EVENING SESSION.

The House resumed its session at 8 o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Kennerly and Simms.

Mr. Comly, chairman of Select Committee, reported as follows:

MR. SPEAKER—Your Select Committee, to whom was referred C. B. No. 47, being “An Act defining the Council and Representative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly,” beg leave to report the same back, and recommend the accompanying bill as a substitute therefor.

Report received, and, on motion, the substitute was adopted.

Rules suspended, read first and second time by title, and put upon its final passage.

Read third time by title, and passed.

Ayes—Messrs. Boswell, Comly, Edwards, Gallaher, Patton, Rhodes, and Mr. Speaker—7.

Nays—Messrs. Anderson, Weston, and Word—3.

Absent—Messrs. Kennerly, Simms, and Tennant.

The title was agreed to.

On motion of Mr. Anderson, a Committee of three was appointed to confer with a like Committee from the Council, on Conference Committee to H. B. No. 61.

Messrs. Anderson, Tennant, and Weston, were appointed such Committee.

On motion of Mr. Word, a Committee of three was appointed to confer with a like Committee from the Council on Council amendments to H. B. Nos. 30 and 54.

Messrs. Word, Rhodes, and Boswell, were appointed such Committee.

Mr. Anderson introduced H. B. No. 63, “An Act to amend an act entitled an act providing increased compensation to officers of this Territory, approved January 24, 1865.”

Read first time.

Mr. Comly moved to reject the bill.

Motion lost, by the following vote :

Ayes—Messrs. Boswell, Comly, and Edwards—3.

Nays—Messrs. Anderson, Gallaher, Patton, Rhodes, Weston, Word, and Mr. Speaker—7.

Absent—Messrs. Kennerly, Simms, and Tennant.

Mr. Anderson moved to suspend the rules, and put the bill on its final passage.

Mr. Comly moved a call of the House.

Call suspended.

The bill was then read the third time by its title, and lost:

Ayes—Messrs. Anderson, Gallaher, and Rhodes—3.

Nays—Messrs. Boswell, Comly, Edwards, Patton, Tennant, Weston, Word, and Mr. Speaker—8.

Absent—Messrs. Kennerly and Simms.

On motion of Mr. Boswell, the House adjourned.

FORTIETH DAY.

DECEMBER 13, 1867.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Mr. Simms.

Prayer by the Chaplain.

Journal of yesterday read and approved.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That H. B. No. 34, "An Act for establishing territorial hospital," has been indefinitely postponed.

Mr. Tennant, chairman of Committee on Enrollment, made the following report :

MR. SPEAKER—Your Committee on Enrollment beg leave to report H. B. No. 54 correctly enrolled.

Mr. Rhodes, chairman of Committee of Ways and Means, reported as follows :

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred C. J. R. No. 8, have had the same under consideration, and would respectfully recommend that said resolution pass without amendment.

Report received.

C. J. R. No. 8, "To provide compensation to J. J. Roe & Co.," was put upon its final passage.

Read third time, and passed.

Ayes—Messrs. Anderson, Boswell, Comly, Gallaher, Kennerly, Patton, Rhodes, Weston, Word, and Mr. Speaker—10.

Nays—None.

Absent—Messrs. Edwards, Simms, and Tennant.

The title agreed to.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

MR. SPEAKER—The Council have appointed Messrs. Orr, Watson, and Cullen, as members of Committee of Conference on H. B. Nos. 30 and 54.

Mr. Patton, chairman of the Select Committee, to whom was referred C. B. No. 33, reported as follows:

MR. SPEAKER—Your Select Committee, to whom was referred C. B. No. 33, having had the same under consideration, report it back to the House, and recommend that it be indefinitely postponed.

Report received.

The bill was then read for information.

On motion, the report of the Committee was adopted.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

That House substitute for C. B. No. 47 had passed the Council.

On motion of Mr. Boswell, C. B. No. 33, "An Act supplementary to an act concerning county treasurers," was indefinitely postponed.

Ayes—Messrs. Boswell, Edwards, Gallaher, Patton, Rhodes, Weston, and Word—7.

Nays—Messrs. Anderson, Comly, Kennerly, Tennant, and Mr. Speaker—5.

Absent—Mr. Simms.

Mr. Word, chairman of the Judiciary Committee, reported as follows:

MR. SPEAKER—Your Judiciary Committee, to whom was referred C. B. No. 23, being “An Act to dissolve the bonds of matrimony between Mary E. Lannier and Amos Lannier,” beg leave to report the same to the House, with the recommendation that the same may be disposed of by the House.

Report received.

Mr. Tennant, chairman of the Committee on Enrollment, made the following report:

MR. SPEAKER—Your Committee on Enrollment beg leave to report H. B. Nos. 11, 25, 45, and 57,

Also, H. J. M. No. 6, and H. J. R., duly handed to the Governor, Dec. 13, 1867, at 11 A. M.

Report received.

On motion of Mr. Comly, C. B. No. 23, “An Act to dissolve the bonds of matrimony between Mary E. Lannier and Amos Lannier,” was indefinitely postponed.

On motion of Mr. Comly, the House took a recess until 1½ o'clock, P. M.

AFTERNOON SESSION.

The House resumed its session at 1½ o'clock, P. M. Mr. Speaker in the chair.

Roll called—absent, Messrs. Patton and Simms.

Mr. Anderson, chairman of the Committee of Conference on H. B. No. 61, reported as follows:

MR. SPEAKER—Your Committee of Conference, with a like Committee of the Council, to whom was referred H. B. No. 61, “An Act to provide compensation to James Tufts,” beg leave to report that they have had the same under consideration, and that said Committee have failed to agree upon Council amendments to said bill.

Report received.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That H. J. R. No. 9, “Authorizing the Auditor to draw certain warrants,” had passed the Council, with certain amendments.

The amendments and resolution were, on motion, referred to Committee of Ways and Means.

Mr. Word, chairman of the Committee of Conference, reported as follows :

MR. SPEAKER—Your Committee of Conference, upon the Joint Resolution of the House, having had under consideration, in connection with a like Committee on the part of the Council, H. B. Nos. 30 and 54, beg leave to report that said Conference Committee cannot agree upon the matters of difference upon H. B. No. 30, being “An Act regulating the fees of officers.”

That upon H. B. No. 54, being “An Act in relation to liens by attachments and judgments,” the Conference Committee have agreed that the Council will recede from their amendment to the same, and will recommend that it pass with certain other amendments.

Your Committee would recommend, that H. B. No. 54 be sent back to the Council for amendments, in pursuance of the agreement of the Conference Committee.

Report received.

H. B. No. 54, “An Act in relation to liens by attachments and judgments,” was, on motion, returned to the Council with the amendments reported by the Committee of Conference.

C. J. R. No. 9, "Increasing compensation to C. B. Robison, extra Assistant Clerk of the Council, and John M. Clarkson, extra Assistant Clerk of the House of Representatives," was read first and second time, and, on motion of Mr. Word, was referred to Committee of Ways and Means.

C. J. R. No. 10, "A request by the Legislative department, asking L. E. Munson and H. L. Hosmer to resign," with the attendant resolution, was read first and second time, and referred to Committee on Territorial Affairs.

Mr. Edwards in the chair.

The following communication was received from the Governor, through his private secretary:

MR. SPEAKER—I am directed by the Governor to inform the House that he has this day approved H. J. M. No. 6, entitled "Joint Memorial to Congress asking the establishment of a branch mint in the Territory of Montana."

Also, H. B. No. 57, entitled "An Act authorizing the county commissioners of Madison and Jefferson counties to levy and collect a special tax for the purpose of erecting county buildings."

Also, H. B. No. 45, "An Act to provide for the laying out and establishing a territorial road from Bozeman City to Helena City."

Also, H. J. R. No. 8, "Appropriating money to William Deascey."

Also, H. B. No. 11, entitled "An Act to incorporate the City of Virginia, approved Dec. 30, 1864," and to repeal certain parts of said act.

Mr. Speaker offered the following resolution :

Resolved, That the thanks of this House are hereby tendered to D. W. Tilton & Co., proprietors of the Post, for their punctuality in printing and delivering to this House, copies of the journals and documents during this session of the Legislature.

A call of the House was ordered.

On motion, the call of the House was dispensed with.

C. J. R. No. 10 was taken from the Committee on Territorial Affairs.

On motion, the resolution offered by Mr. Stewart was adopted.

Mr. A. H. Barrett, Chief Clerk of the House, tendered his resignation, as follows:

MR. SPEAKER—I feel it incumbent on me to tender my resignation as Chief Clerk of your honorable body, not on account of any unkind feelings on my part toward the members, as I entertain for them the highest respect, but on account of the outside influence brought against me.

On motion of Mr. Word, Mr. Barrett's resignation was received, and F. A. Shields was appointed, by acclamation, Chief Clerk of the House.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

That H. B. No. 54, "An Act in relation to liens by attachments and judgments," had passed the Council.

Resolved, That the thanks of this House are hereby tendered to the Hon. Wellington Stewart, Speaker of this House, for the commendable impartiality and manly dignity with which he has presided over the deliberations of this House during the Fourth Session of the Legislative Assembly of Montana; to the several Clerks, Sergeant-at-Arms, Doorkeeper, and Fireman, for their promptness, industry and attention to their duties during the labors of this session.

Mr. Word moved a call of the House.

On motion of Mr. Word, the call was dispensed with.

The resolution was, by motion of Mr. Word, unanimously adopted.

Mr. Boswell in the chair.

Mr. Stewart, by consent, introduced H. J. R. No. 10, "Authorizing the Auditor to draw certain warrants."

Read first and second time.

Mr. Word offered the following amendment, which was adopted:

Amend by inserting the following names: O. P. Thomas, Sergeant-at-Arms, H. J. Johnson, Doorkeeper, A. J. Snider and R. J. Watson, Pages, and D. Tuttle, Chaplain; also, Thomas Wade, Chief Clerk of the Council, C. C. Menaugh, Assistant Clerk, L. Weld, Sergeant-at-Arms, John Thompson, Doorkeeper, Mr. Chamberlin, Fireman, and Perry Johnson, Page of Council.

Mr. Rhodes, from Committee of Ways and Means, made the following minority report, on C. J. R. No. 9:

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred C. J. R. No. 9, have had the same under consideration, and would respectfully recommend that said resolution be laid on the table.

Report received.

Mr. Gallaher presented majority report as follows:

We recommend the passage of this resolution with the following amendment:

Amend Council Joint Resolution No. 9, by adding after the words "Territory of Montana," the following: "and the further sum of one thousand dollars be allowed to James B. Tufts, Secretary of the Territory of Montana."

On motion of Mr. Anderson, the majority report was laid on the table.

On motion of Mr. Word, the minority report was adopted.

On motion of Mr. Anderson, the following resolution was adopted:

Resolved, That a Committee of three be appointed to wait upon the Governor, to act with a similar Committee from the Council, to inform him that the Legislative Assembly has adopted a Joint Resolution to adjourn this Friday, at 12 o'clock, midnight, Dec. 13, 1867, and inquire if His Excellency has any further communication to make.

Messrs. Anderson, Word, and Weston, were appointed said committee.

C. J. R. No. 10, "Requesting Messrs. Munson and Hosmer to resign," was then taken up.

Mr. Word moved to refer it to Committee on Territorial Affairs.

Mr. Stewart moved that the rules be suspended, and the resolution put upon its final passage. Carried.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk:

MR. SPEAKER—I am directed by the Council to inform your honorable body that the Council has appointed Messrs. Watson, Corum and Orr as special committee to await, in company with a like committee from the House, and inquire of His Excellency if he has any further communication to make before adjournment, this Friday, Dec. 13, 1867, at 12 o'clock, midnight.

PROCLAMATION.

Whereas, By An Act of Congress approved March 2, 1867, the laws of the Second and Third Sessions of the Legislature of Montana Territory were declared null and void; and

Whereas, The regular session of the Legislature is limited by the Organic Act to forty days, and it appearing that time sufficient is not allowed to complete the necessary business or enact certain

laws absolutely needed; Now, therefore, I, Green Clay Smith, Governor of the Territory of Montana, by authority vested in me by law, do call an Extraordinary Session of the Legislature of Montana, to begin its session at 12 o'clock, M., on Saturday, the 14th day of December, 1867, and continue in session not to exceed ten days.

In testimony whereof, I hereunto set my hand and cause the seal of the Territory to be affixed.

Done at Virginia City, this the 13th day of December, A. D. 1867, and of the Independence of the United States of [SEAL] America the ninety-second.

By the Governor,

GREEN CLAY SMITH.

JAMES TUFTS,

Secretary of the Territory.

On motion, the communication was spread upon the journal.

C. J. R. No. 10 was then read third time, and passed.

Ayes—Messrs. Anderson, Comly, Edwards, Gallaher, Kennerly, Rhodes, Tennant, and Mr. Speaker—8.

Nays—Messrs. Boswell, Patton, Weston, and Word—4.

Absent—Mr. Simms.

Title agreed to.

Mr. Tennant, chairman of Committee on Enrollment, made the following report:

MR. SPEAKER—Your Committee on Enrollment beg leave to report House Bills Nos. 11, 25 and 45, also, House Joint Resolution No. 8, correctly enrolled.

Report received.

On motion of Mr. Stewart, the House took a recess until 7 o'clock, P. M.

EVENING SESSION.

House resumed at 7 o'clock, p. m. Mr. Speaker in the chair.

Roll called—absent, Messrs. Edwards and Simms.

The following communication was received from His Excellency the Governor, through Mr. Cummings, his private secretary :

MR. SPEAKER—I am directed by the Governor to inform the House that he has this day approved House Bill No. 25, entitled “An Act to amend an act concerning licenses.”

Mr. Rhodes, chairman of Committee of Ways and Means, reported as follows, upon H. J. R. No. 9 :

MR. SPEAKER—Your Committee of Ways and Means, to whom was referred H. J. R. No. 9, have had the same under consideration, and most respectfully recommend that the House do not concur in the Council amendments.

On motion of Mr. Weston, the report was laid on the table.

On motion of Mr. Word, the House concurred in Council amendments to H. J. R. No. 9.

The hour having arrived for which C. B. No. 60, “An Act to dissolve the bonds of matrimony existing between G. Jules Germain and Marie Germain,” was made special order, it was taken up, and on motion of Mr. Word, was indefinitely postponed.

Mr. Tennant, chairman of Committee on Enrollment, reported H. J. R. No. 9 correctly enrolled.

Report received.

The following communication was received from His Excellency the Governor, through his private secretary :

MR. SPEAKER—I am instructed by His Excellency the Gov-

ernor to inform your honorable body that he has approved H. B. No. 54, "An Act in relation to liens by attachments and judgments."

Mr. Stewart offered the following resolution, which was adopted :

Resolved, That the thanks of this House be and are hereby tendered to His Excellency the Governor, Green Clay Smith, and James Tufts, Secretary, for their assistance and services rendered to the members of the House of Representatives at the Fourth Session thereof.

Mr. Tennant offered the following resolution, which was adopted :

Resolved, By the House of Representatives, the Council concurring, that the Legislative Assembly of the Territory of Montana adjourn *sine die* at 9 o'clock, P. M., this thirteenth day of December, 1867, and the resolution providing for adjournment at 12 P. M. is hereby repealed.

The following communication was received from the Council, through Mr. Wade, their Chief Clerk :

That the House resolution to adjourn at 9 o'clock had been concurred in by the Council.

Mr. Anderson made the following report:

MR. SPEAKER—Your Committee of three, with a like Committee of the Council, have waited upon His Excellency the Governor, and beg leave to report that he has no further communication to make.

Report received.

The hour having arrived for adjournment, the House adjourned *sine die*.

WELLINGTON STEWART,
Speaker.

Attest: F. A. SHIELDS,
Chief Clerk.

December 13, 1867.

VIRGINIA CITY, MONTANA TERRITORY, }
December 13, 1867. }

I hereby certify that the foregoing is a true and correct journal of the proceedings of the House of Representatives of the Fourth Session of the Legislative Assembly of the Territory of Montana.

A. H. BARRETT,
Chief Clerk.

Attest:

WELLINGTON STEWART,
Speaker of the House of Representatives.

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